

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION MDL No. 2804  
OPIATE LITIGATION Case No. 17-md-2804

This document relates to: Judge Dan  
Aaron Polster

The County of Cuyahoga v. Purdue  
Pharma, L.P., et al.

Case No. 17-OP-45005

City of Cleveland, Ohio vs. Purdue  
Pharma, L.P., et al.

Case No. 18-OP-45132

The County of Summit, Ohio,  
et al. v. Purdue Pharma, L.P.,  
et al.

Case No. 18-OP-45090

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VOLUME II

Videotaped Deposition of Kyle J. Wright  
Washington, D.C.

March 4, 2019

9:09 a.m.

Reported by: Bonnie L. Russo

Job No. 3249543

<p style="text-align: right;">Page 269</p> <p>1 Videotaped Deposition of Kyle J. Wright held 2 at: 3 4 5 6 7 Williams &amp; Connolly, LLP 8 725 12th Street, N.W. 9 Washington, D.C. 10 11 12 Pursuant to Notice, when were present on behalf 13 of the respective parties: 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 271</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of Purdue Pharma, L.P. 3 DEBRA D. O'GORMAN, ESQ. 4 DECHERT, LLP 5 Three Bryant Park 6 1095 Avenue of the Americas 7 New York, New York 10036 8 212-698-3593 9 debra.ogorman@dechert.com 10 11 On behalf of Johnson &amp; Johnson and Janssen 12 Pharmaceuticals, Inc. 13 JEFFREY A. BARKER, ESQ. 14 O'MELVENY &amp; MYERS, LLP 15 610 Newport Center Drive, 17th Floor 16 Newport Beach, California 92660 17 949-823-7963 18 jbarker@omm.com 19 -and- 20 RAYMOND KRNEVIC, ESQ. 21 (Via Teleconference) 22 TUCKER ELLIS, LLP 23 950 Main Avenue 24 Suite 1100 25 Cleveland, Ohio 44113 26 216-592-5000 27 raymond.krnevic@tuckerellis.com 28 29 On behalf of Walmart, Inc. 30 NEAL J. STEPHENS, ESQ. 31 JONES DAY 32 1755 Embarcadero Road 33 Palo Alto, California 94303 34 650-739-3939 35 nstephens@jonesday 36 -and- 37 PATRICK J. BEISELL, ESQ. 38 (By Teleconference) 39 JONES DAY 40 77 West Wacker 41 Chicago, Illinois 60601 42 312-269-4066 43 pbeisell@jonesday.com 44 45</p>
<p style="text-align: right;">Page 270</p> <p>1 APPEARANCES: 2 3 On behalf of the Witness: 4 DAVID LEE TAYMAN, ESQ. 5 TAYMAN LANE CHAVERRI, LLP 6 1875 Eye Street, N.W. 7 Fifth Floor 8 Washington, D.C. 20006 9 202-695-8147 10 dtayman@tlclawfirm.com 11 On behalf of the U.S. Department of Justice: 12 JAMES R. BENNETT, II, ESQ. 13 UNITED STATES ATTORNEY'S OFFICE 14 801 West Superior Avenue 15 Suite 400 16 Cleveland, Ohio 44113 17 216-622-3988 18 james.bennett4@usdoj.gov 19 20 On behalf of Cuyahoga County: 21 HUNTER J. SHKOLNIK, ESQ. 22 NAPOLI SHKOLNIK, PLLC 23 360 Lexington Avenue, 11th Floor 24 New York, New York 10017 25 212-397-1000 26 sshkolnik@napolilaw.com 27 On behalf of Summit County: 28 DONALD A. MIGLIORI, ESQ. 29 KAITLYN EEKHOFF, ESQ. 30 MOTLEY RICE, LLC 31 28 Bridgeside Boulevard 32 Mt. Pleasant, South Carolina 29464 33 843-216-9241 34 dmigliori@motleyrice.com 35 keekhoff@motleyrice.com 36 On behalf of Plaintiffs: 37 PAUL FARRELL, JR., ESQ. 38 (Via Teleconference) 39 GREENE KETCHUM BAILEY FARRELL &amp; TWEEL, LLP 40 419 11th Street 41 Huntington, West Virginia 25701 42 304-525-9115 43 44 45</p>	<p style="text-align: right;">Page 272</p> <p>1 APPEARANCES (CONTINUED): 2 On behalf of Par Pharmaceuticals: 3 AMY M. VANNI, ESQ. 4 McCARTER &amp; ENGLISH 5 1600 Market Street, Suite 3900 6 Philadelphia, Pennsylvania 19103 7 215-979-3848 8 avanni@mccarter.com 9 10 On behalf of Cardinal Health, Inc.: 11 ENU MAINIGI, ESQ. 12 COLLEEN McNAMARA, ESQ. 13 JENNIFER WICHT, ESQ. 14 BRAD MASTERS, ESQ. 15 WILLIAMS &amp; CONNOLLY, LLP 16 725 12th Street, N.W. 17 Washington, D.C. 20005 18 202-434-5000 19 emainigi@wc.com 20 cmcnamara@wc.com 21 jwicht@wc.com 22 bmasters@wc.com 23 24 On behalf of CVS Indiana, LLC and CVS Rx 25 Services, Inc.: 26 ANTHONY M. RUIZ, ESQ. 27 ZUCKERMAN SPAEDER, LLP 28 1800 M Street, N.W. 29 Suite 1000 30 Washington D.C. 20036 31 202-778-1800 32 aruiz@zuckerman.com 33 34 On behalf of AmerisourceBergen Drug 35 Corporation: 36 SHANNON McCLURE, ESQ. 37 REED SMITH, LLP 38 Three Logan Square, Suite 3100 39 1717 Arch Street 40 Philadelphia, Pennsylvania 19103 41 215-241-7910 42 smclure@reedsmith.com 43 44 45</p>

<p>Page 273</p> <p>1 APPEARANCES (CONTINUED):</p> <p>2 On behalf of Henry Schein, Inc.: BRANDAN MONTMINY, ESQ.</p> <p>3 (By Teleconference) LOCKE LORD, LLP</p> <p>4 2200 Ross Avenue Suite 2800</p> <p>5 Dallas, Texas 75201 214-740-8554 brandan.montminy@lockelord.com</p> <p>7 On behalf of McKesson Corporation: GEOFFREY E. HOBART, ESQ.</p> <p>8 ANDREW STANNER, ESQ.</p> <p>9 MEGHAN MONAGHAN, ESQ. COVINGTON &amp; BURLING, LLP</p> <p>10 One CityCenter 850 Tenth Street, N.W.</p> <p>11 Washington, D.C. 20001 202-662-6000 ghobart@cov.com astanner@cov.com mmonaghan@cov.com</p> <p>13 -and- CHRISTOPHER K. EPPICH, ESQ.</p> <p>14 COVINGTON &amp; BURLING, LLP</p> <p>15 1999 Avenue of the Stars Los Angeles, California 90067 424-332-4764 ceppich@cov.com</p> <p>17 On behalf of Allergan Finance, LLC: JENNIFER LEVY, ESQ.</p> <p>19 CATIE VENTURA, ESQ. KIRKLAND &amp; ELLIS, LLP</p> <p>20 655 Fifteenth Street, N.W. Washington, D.C. 20005 202-879-5907 jennifer.levy@kirkland.com catie.ventura@kirkland.com</p> <p>23 24 25</p>	<p>Page 275</p> <p>1 ALSO PRESENT:</p> <p>David Cohen, Special Master</p> <p>2 Renee A. Bacchus, Esq., United States Department of Justice, United States Attorney's 3 Office</p> <p>Robert E. Chandler, Esq., United States 4 Department of Justice, Civil Division David M. Finkelstein, Esq., United States 5 Department of Justice, Civil Fraud Section Mariama C. Spears, Esq., United States 6 Department of Justice, Drug Enforcement Administration</p> <p>7 Natalie A. Waites, United States Department of Justice, Civil Fraud Section</p> <p>8 Chelsea Thompson, Napoli Shkolnik, PLLC Jodie Klockenga, Napoli Shkolnik, PLLC (Via 9 Teleconference)</p> <p>Mike Fuller, Motley Rice 10 Daniel Russo, Videographer Solomon Francis, IT Specialist</p> <p>11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>Page 274</p> <p>1 APPEARANCES (CONTINUED):</p> <p>2 On behalf of Mallinckrodt and Spec Gx, LLC: ANDREW O'CONNOR, ESQ.</p> <p>3 WILLIAM DAVISON, ESQ. ROPES &amp; GRAY, LLP</p> <p>4 Prudential Tower 800 Boylston Street 5 Boston, Massachusetts 02199 617-951-7000 andrew.o'connor@ropesgray.com william.davison@ropesgray.com</p> <p>7 On behalf of H.D. SMITH: WILLIAM E. PADGETT, ESQ.</p> <p>8 BARNES &amp; THORNBURG, LLP</p> <p>9 11 South Meridian Street Indianapolis, Indiana 46204 317-236-1313 william.padgett@btlaw.com</p> <p>11 On behalf of HBC: ROBERT M. BARNES, ESQ.</p> <p>12 (Via Teleconference) MARCUS &amp; SHAPIRA, LLP</p> <p>13 One Oxford Centre, 35th Floor 301 Grant Street 14 Pittsburgh, Pennsylvania 15219 412-338-5224 rbarnes@marcus-shapira.com</p> <p>16 On behalf of Walgreen Co. and Walgreen Eastern Co., Inc.: LESTER C. HOUTZ, ESQ.</p> <p>18 BARTLIT BECK, LLP</p> <p>19 1801 Wewatta Street Suite 1200 20 Denver, Colorado 80202 303-592-3197 lester.houtz@bartlitbeck.com</p> <p>21 On behalf of Prescription Supply, Inc. ZACHARY MARTIN, ESQ.</p> <p>22 (Via Teleconference) FOX ROTHSCHILD, LLP</p> <p>23 Stone Manor Corporate Center 2700 Kelly Road, Suite 300 24 Warrington, Pennsylvania 18976 215-918-3680 zmartin@foxrothschild.com</p> <p>25</p>	<p>Page 276</p> <p>1 C O N T E N T S</p> <p>2 EXAMINATION OF KYLE J. SMITH PAGE</p> <p>3 BY MR. MIGLIORI 278</p> <p>4 BY MR. SHKOLNIK 383</p> <p>5 BY MS. MAINIGI 478</p> <p>6 BY MR. EPPICH 535</p> <p>7</p> <p>8 EXHIBITS</p> <p>9 Exhibit 30 Letter dated 9-27-06 322 CAH_MDL_PRIORPROD_DEA07_00837645-648</p> <p>10 Exhibit 31 Letter dated 12-27-07 343 CAH_MDL_PRIORPROD_DEA07_01053067-068</p> <p>11 Exhibit 32 Draft Summary of the 356 HDMA DEA Meeting October 16 and 17, 2007 HDS-MDL-00622468-472</p> <p>13 Exhibit 33 Effective Controls Against 362 Diversion of Controlled Substances 10-16-07 ECAH_001_000454261-320</p> <p>15 Exhibit 34 Industry Compliance 370 Guidelines CAH_MDL2804_00988458-472</p> <p>18 Exhibit 35 Drug Enforcement 386 Administration's Office of Diversion Control CAH 019076-120</p> <p>20 Exhibit 36 Claimant's Request for 401 Production of Documents to Plaintiff HDS_MDL_00002032-2045</p> <p>22 Exhibit 37 NWDA Suspicious Order 415 Monitoring System CAH_MDL2804_01465723-734</p> <p>23 24 25</p>

<p style="text-align: right;">Page 277</p> <p>1 EXHIBITS (CONTINUED):</p> <p>2 Exhibit 38 Request Number 03-1134-F 429 CAH_MDL2804_02203353-357</p> <p>3 Exhibit 39 Chemical Handler's Manual 437 4 January 2004 WAGMDL00395965-033</p> <p>5 Exhibit 40 Letter date stamped 9-4-08 442 6 US-DEA-00005987-6045</p> <p>7 Exhibit 41 Inventory Data 459 License Agreement 8 TEVA_MDL_A_03448408-418</p> <p>9 Exhibit 42 Inventory Data 467 License Agreement 10 PPLPC004000320062-072</p> <p>11 Exhibit 43 First Amendment 472 Inventory Data License 12 Agreement PPLPC034001042114-115</p> <p>13 Exhibit 44 IMS Health Data 473 14 Sharing Agreement PPLPC031001277089-092</p> <p>15 Exhibit 45 (SKIPPED)</p> <p>16 Exhibit 46 21 U.S.C.A. Section 823 495</p> <p>17 Exhibit 47 21 C.F.R. Section 1301.74 495</p> <p>18 Exhibit 48 United States vs. 527 19 \$463,407.72 Opinion</p> <p>20 Exhibit 49 ARCOS 539 21 Automation of Reports and Consolidated Orders System</p> <p>22 Exhibit 50 (SKIPPED)</p> <p>23 Exhibit 51 E-Mail Chain 551 24 dated 8-14-08 MCK_WVA_000088-89</p> <p>25 (Exhibits included with transcript.)</p>	<p style="text-align: right;">Page 279</p> <p>1 A. Okay.</p> <p>2 Q. Before we get started, do you have</p> <p>3 any questions or concerns, anything we need to</p> <p>4 know about?</p> <p>5 A. No.</p> <p>6 Q. Okay. Sir, could you tell us again</p> <p>7 what you were doing from 1995 to 2005 at DEA.</p> <p>8 A. I was a diversion investigator</p> <p>9 assigned to the Dallas field division. I</p> <p>10 covered a myriad of assignments and</p> <p>11 investigations, basically culminating in -- in</p> <p>12 two facets: the methamphetamine problem along</p> <p>13 the Texas-Oklahoma border, and actually I was</p> <p>14 engaged in an Internet investigation just prior</p> <p>15 to being transferred to D.C.</p> <p>16 Q. Okay. And that Internet</p> <p>17 investigation what -- what type of</p> <p>18 investigation was that?</p> <p>19 A. It was a -- a Internet Hydrocodone</p> <p>20 investigation.</p> <p>21 Q. Was it specific to the field where</p> <p>22 you were located in Dallas, or was it outside</p> <p>23 of the Dallas area?</p> <p>24 A. The actual pharmacies were located</p> <p>25 within the jurisdictional or operational area</p>
<p style="text-align: right;">Page 278</p> <p>1 PROCEEDINGS</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Good morning.</p> <p>4 We going on the record at 9:09 a.m.</p> <p>5 on March 4th, 2019.</p> <p>6 This begins Media Unit No. 1, Volume</p> <p>7 II, of the continued recorded video deposition</p> <p>8 of Kyle Wright.</p> <p>9 We are now on the record.</p> <p>10 You may proceed, Counsel.</p> <p>11 MR. MIGLIORI: Thank you.</p> <p>12 EXAMINATION BY COUNSEL FOR SUMMIT COUNTY</p> <p>13 PLAINTIFFS</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. Good morning.</p> <p>16 A. Good morning.</p> <p>17 Q. My name is Don Migliori. I'm here</p> <p>18 on behalf of Summit County and -- and the</p> <p>19 plaintiffs generally in the multidistrict</p> <p>20 litigation.</p> <p>21 With me is Hunter Shkolnik.</p> <p>22 A. Morning.</p> <p>23 Q. This morning we'll be asking you</p> <p>24 some questions as a follow-up to our day</p> <p>25 together on Thursday. Okay?</p>	<p style="text-align: right;">Page 280</p> <p>1 of the Dallas field division with ties to other</p> <p>2 areas of the country.</p> <p>3 Q. So fair to say that, from 1995 when</p> <p>4 you first started at the DEA through 2005, you</p> <p>5 had no responsibilities with respect to the</p> <p>6 drug enforcement agency headquarter operations?</p> <p>7 A. That would be correct.</p> <p>8 Q. And while you were in the Dallas</p> <p>9 field office, primarily your responsibilities</p> <p>10 involved investigations relative to</p> <p>11 methamphetamines and pseudoephedrine, correct?</p> <p>12 MS. McCLURE: Objection. Misstates</p> <p>13 the witness's testimony.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. Go ahead. You an answer.</p> <p>16 A. That would be correct.</p> <p>17 Q. Okay. So as you know, counsel</p> <p>18 showed you the notice of deposition for today</p> <p>19 and then also showed you Exhibit No. 2.</p> <p>20 Do you have the exhibit book in</p> <p>21 front of you?</p> <p>22 A. Yes, sir.</p> <p>23 Q. So I'm going to project on the</p> <p>24 screen what we're talking about. But you have</p> <p>25 it in front of you. And if you have any</p>

<p style="text-align: right;">Page 281</p> <p>1 questions or if not sure where I'm referring</p> <p>2 to, please -- please just let me know.</p> <p>3 Exhibit 2, as was explained to you,</p> <p>4 is the authorization for you to testify here</p> <p>5 today.</p> <p>6 Do you understand that?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And that authorization was provided</p> <p>9 by the United States Department of Justice.</p> <p>10 And the purpose of that authorization is to</p> <p>11 identify five areas where you are, in fact,</p> <p>12 authorized to give testimony for this case.</p> <p>13 Do you see that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And we'll go through those in a</p> <p>16 minute.</p> <p>17 But on the second page is a list of</p> <p>18 the areas that you are not authorized to speak</p> <p>19 on, and it's letter A through M.</p> <p>20 Do you see that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. So just for context, I want</p> <p>23 to make sure that we're clear of why you're</p> <p>24 here and what you're allowed to speak on based</p> <p>25 on your authorization from the Department of</p>	<p style="text-align: right;">Page 283</p> <p>1 THE WITNESS: Yes, sir.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Okay. The third is your personal</p> <p>4 recollection of practices and procedures</p> <p>5 relating to ARCOS data and suspicious order</p> <p>6 reports.</p> <p>7 MR. BENNETT: Objection. I think</p> <p>8 you missed a word. You said "your." You -- I</p> <p>9 think you didn't tell him "your practices and</p> <p>10 procedures."</p> <p>11 MR. MIGLIORI: Okay. There are two</p> <p>12 yours in there. I'll repeat it.</p> <p>13 MR. BENNETT: Correct.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. Your personal recollection of your</p> <p>16 practices and procedures relating to ARCOS data</p> <p>17 and suspicious order reports.</p> <p>18 Do you understand that that's and</p> <p>19 that has been your authorization to speak here</p> <p>20 today and -- and last week?</p> <p>21 MS. MAINIGI: Objection. Form.</p> <p>22 THE WITNESS: Yes, sir.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. And -- and the reason I'm asking is,</p> <p>25 when you are giving your testimony in this</p>
<p style="text-align: right;">Page 282</p> <p>1 Justice. Okay?</p> <p>2 MS. MAINIGI: Objection.</p> <p>3 THE WITNESS: Yes, sir.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. The first area that you're</p> <p>6 authorized to speak about is your general</p> <p>7 employment history with the DEA.</p> <p>8 You have already given us a pretty</p> <p>9 complete description of your general employment</p> <p>10 history with the DEA, correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And that started in 1995, and you</p> <p>13 retired in 2017; is that correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And you're currently retired and</p> <p>16 have been for approximately two years, correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. All right. The second area you're</p> <p>19 authorized to speak on is your general duties</p> <p>20 in your various positions held in the DEA.</p> <p>21 Do you feel like you've given us a</p> <p>22 general -- I think the word was used several</p> <p>23 times -- high-level description of your various</p> <p>24 positions held at the DEA?</p> <p>25 MS. MAINIGI: Objection. Form.</p>	<p style="text-align: right;">Page 284</p> <p>1 case, you understand that you're here giving us</p> <p>2 your factual background and experience with the</p> <p>3 DEA based on this authority.</p> <p>4 Did you understand that?</p> <p>5 MS. MAINIGI: Objection.</p> <p>6 MS. McCLURE: Objection.</p> <p>7 THE WITNESS: Yes, sir.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. And that you weren't here speaking</p> <p>10 for the G -- the DEA across the board as an</p> <p>11 official representative of the DEA today.</p> <p>12 You understood that, correct?</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 THE WITNESS: Yes, sir.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. And you weren't authorized to speak</p> <p>17 on behalf of the DEA for the years that you</p> <p>18 were employed at the DEA; that is you were</p> <p>19 limited to your personal recollection of your</p> <p>20 practices.</p> <p>21 Did you understand that?</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 THE WITNESS: Yes, sir.</p> <p>24 BY MR. MIGLIORI:</p> <p>25 Q. The fourth area where you've been</p>

<p style="text-align: right;">Page 285</p> <p>1 authorized to speak is your personal 2 recollection of your interaction with 3 registrants when a distributor terminated its 4 relationship with a customer due to the risk of 5 division -- diversion. 6 When speaking about that topic, that 7 is the termination of a distributor in 8 relationship to a customer, you understood that 9 any testimony that you provided last week or 10 will provide today is your personal your 11 personal recollection -- interact -- strike -- your 12 personal recollection of your interactions. 13 Do you understand and appreciate 14 that limitation? 15 MS. MAINIGI: Objection. 16 THE WITNESS: Yes, sir. 17 BY MR. MIGLIORI: 18 Q. And the final area that the 19 Department of Justice has authorized you to 20 give testimony in this case is your personal 21 recollection regarding DEA's interpretation and 22 enforcement of and practices relating to 21 USC 23 823 and 21 CFR 1301.74 to the extent covered by 24 the foregoing authorized specific topics. 25 Did you understand that, whenever</p>	<p style="text-align: right;">Page 287</p> <p>1 these topics that we've -- we've identified 2 here, he would have a position, at least 3 relative these -- to these topics, as you said, 4 three or four tiers higher than you in the flow 5 chart within DEA headquarters, correct? 6 MS. MAINIGI: Objection. 7 THE WITNESS: That would be correct. 8 BY MR. MIGLIORI: 9 Q. The same for Mr. Mapes; Mr. Mapes 10 was your direct supervisor, correct? 11 A. Yes, sir. 12 Q. And to the extent that Mr. Mapes may 13 testify in this case, he would have his own 14 authority under this process to testify, and he 15 would be above you in terms of role and 16 responsibility in the area of distributor 17 initiative and briefing, correct? 18 MS. MAINIGI: Objection. 19 THE WITNESS: I apologize. I got a 20 little lost in that question. 21 MR. MIGLIORI: I may have too. I'll 22 start over. 23 BY MR. MIGLIORI: 24 Q. Mr. Mapes was your direct 25 supervisor, correct?</p>
<p style="text-align: right;">Page 286</p> <p>1 you spoke about the DEA's interpretation of the 2 obligations under the Controlled Substances 3 Act, that you were giving your personal 4 recollection of the DEA's interpretation? 5 MS. MAINIGI: Objection. 6 THE WITNESS: Yes, sir. 7 BY MR. MIGLIORI: 8 Q. The defendants in this case have 9 noticed the depositions of Mr. Rannazzisi. 10 Just for purposes of -- of clarity, 11 what was Mr. Rannazzisi's role in relationship 12 to you in the years you were in the DEA? 13 A. Mr. Rannazzisi was the deputy 14 assistant administrator. And he was about 15 three to four tiers above myself and 16 supervisor. 17 Q. Okay. So you reported directly to 18 him, or did you report to him through 19 Mr. Mapes? 20 MS. McCLURE: Objection. Form. 21 THE WITNESS: I would have reported 22 to him through Mr. Mapes. 23 BY MR. MIGLIORI: 24 Q. Okay. And so, to the extent that 25 Mr. Rannazzisi has testimony that's related to</p>	<p style="text-align: right;">Page 288</p> <p>1 A. Yes, sir. 2 Q. All right. And to the extent that 3 he is speaking on these topics that we've 4 enumerated, he would be the person above you, 5 that is a decision maker above you, on these 6 topics, correct -- 7 MS. MAINIGI: Objection. 8 BY MR. MIGLIORI: 9 Q. -- during the relevant years? 10 MS. MAINIGI: Excuse me. 11 Objection. 12 THE WITNESS: Yes, sir. 13 BY MR. MIGLIORI: 14 Q. Okay. Now, the Justice Department 15 in Exhibit 2 specifically said there is some 16 thing that you are not authorized to talk 17 about. That's on Page 2 of -- of Exhibit 2 18 introduced by defense counsel Thursday. And 19 I'll just go through some of them. 20 You are not authorized and have not 21 testified here about information regarding any 22 specific DEA investigation or activity, 23 correct? 24 MS. MAINIGI: Objection. 25 MS. McCLURE: Objection.</p>



<p style="text-align: right;">Page 289</p> <p>1 THE WITNESS: Correct.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. And you are not authorized and you</p> <p>4 weren't giving any testimony in this case</p> <p>5 relative to classified and classifiable</p> <p>6 information that you may have encountered while</p> <p>7 at the DEA, correct?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 THE WITNESS: Correct.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. You are not authorized and you are</p> <p>12 not speaking in this deposition as to</p> <p>13 information that would reveal the internal</p> <p>14 deliberative process within the United States</p> <p>15 Department of Justice, including the DEA, the</p> <p>16 United States Attorney's Off -- U.S. Attorney's</p> <p>17 Office and/or any federal departments or</p> <p>18 agencies, correct?</p> <p>19 MS. MAINIGI: Objection.</p> <p>20 THE WITNESS: Correct.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. You are not authorized and you did</p> <p>23 not testify on Thursday and will not testify</p> <p>24 today about any information that could reveal</p> <p>25 investigative or intelligence gathering and</p>	<p style="text-align: right;">Page 291</p> <p>1 aware of concerning any proposed agency action,</p> <p>2 correct?</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 THE WITNESS: Correct.</p> <p>5 BY MR. MIGLIORI:</p> <p>6 Q. I know it may seem a little tedious,</p> <p>7 but counsel showed this to you without going</p> <p>8 through those elements. And so I just want to</p> <p>9 make sure we understand.</p> <p>10 You're here to tell us your</p> <p>11 experience at the DEA, correct?</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 MR. STEPHENS: Object to form.</p> <p>14 (Reporter clarification.)</p> <p>15 MR. MIGLIORI: I'll repeat the --</p> <p>16 what we said off the record last time. We're</p> <p>17 -- I'll accept one objection as for everybody,</p> <p>18 unless there's some other reason to make the</p> <p>19 court reporter crazy.</p> <p>20 THE WITNESS: Yes, sir.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. All right. So when counsel last</p> <p>23 week asked you questions about your impressions</p> <p>24 of what was right or what was wrong or what was</p> <p>25 blessed or not blessed, those were your</p>
<p style="text-align: right;">Page 290</p> <p>1 dissemination techniques whose effectiveness</p> <p>2 would thereby be impaired, correct?</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 MR. MIGLIORI: Letter H.</p> <p>5 THE WITNESS: Correct.</p> <p>6 BY MR. MIGLIORI:</p> <p>7 Q. You are not authorized and you are</p> <p>8 not giving any expert testimony related to the</p> <p>9 nonpublic facts or information acquired as part</p> <p>10 of your performance of your official duties at</p> <p>11 the DEA, correct?</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 THE WITNESS: Correct.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. You are not authorized and you are</p> <p>16 not going to offer any personal opinions</p> <p>17 regarding nonpublic facts or information</p> <p>18 acquired as part of your performance of your</p> <p>19 official duties, correct?</p> <p>20 MS. MAINIGI: Objection.</p> <p>21 THE WITNESS: Correct.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. And finally, you are not authorized</p> <p>24 you did not speak and you will not speak on any</p> <p>25 nonpublic recommendations you made or you are</p>	<p style="text-align: right;">Page 292</p> <p>1 recollections of your interpretations of what</p> <p>2 happened in the past, correct?</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 THE WITNESS: Yes, sir.</p> <p>5 BY MR. MIGLIORI:</p> <p>6 Q. And so the defendants have noticed</p> <p>7 what's called a 30(b)(6) witness. That is</p> <p>8 they've actually sent out a notice asking the</p> <p>9 government to produce the person to speak on</p> <p>10 behalf of the Drug Enforcement Agency in this</p> <p>11 litigation.</p> <p>12 To date have you been asked to serve</p> <p>13 as that person that will speak on behalf of the</p> <p>14 DEA in a 30(b)(6) deposition?</p> <p>15 MS. MAINIGI: Objection to form.</p> <p>16 MR. BENNETT: And objection to the</p> <p>17 extent that it calls for any communications</p> <p>18 with counsel, either the general counsel's</p> <p>19 office at DEA or the Department of Justice.</p> <p>20 But otherwise you can answer.</p> <p>21 THE WITNESS: God, I hope not.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. Okay. And, in fact, we believe that</p> <p>24 there is somebody else designated to speak on</p> <p>25 behalf of the Drug Enforcement Agency in that</p>

<p style="text-align: right;">Page 293</p> <p>1 capacity.</p> <p>2 But as you sit here today, you have</p> <p>3 not -- you don't have any understanding that</p> <p>4 that is a role that you're supposed to be</p> <p>5 playing, correct?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 Don, I don't know if you need to</p> <p>8 have a running commentary about what's</p> <p>9 happening as part of your questioning.</p> <p>10 MR. MIGLIORI: Okay. That's -- I</p> <p>11 got your objection. You can -- you can note</p> <p>12 that.</p> <p>13 THE WITNESS: Yes, sir.</p> <p>14 MR. MIGLIORI: All right.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. So we're here about the role that</p> <p>17 you did play and your recollection of the role</p> <p>18 that you played primarily with respect to the</p> <p>19 period of time from 2005 on at the DEA.</p> <p>20 In 2000 --</p> <p>21 MS. McCLURE: Objection to the</p> <p>22 commentary for the record.</p> <p>23 MS. MAINIGI: Is -- is that -- was</p> <p>24 that a question? And are you starting another</p> <p>25 question?</p>	<p style="text-align: right;">Page 295</p> <p>1 MR. MIGLIORI: Go ahead.</p> <p>2 THE WITNESS: Yes, sir.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. All right. So counsel showed you</p> <p>5 some PowerPoints.</p> <p>6 And in 2005 -- this is Exhibit No.</p> <p>7 10 -- you testified to having participated --</p> <p>8 MR. BENNETT: Counsel, can we let</p> <p>9 him find it --</p> <p>10 MR. MIGLIORI: Sure.</p> <p>11 MR. BENNETT: -- find it. It's not</p> <p>12 in the book.</p> <p>13 MR. MIGLIORI: Oh, I apologize.</p> <p>14 MR. BENNETT: Did you find it?</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. Do you have it?</p> <p>17 A. Exhibit No. 10.</p> <p>18 Q. Okay. Counsel showed you Exhibit</p> <p>19 No. 10, which on the cover of the PowerPoint</p> <p>20 attachment says the Internet Pharmacy Data</p> <p>21 Meeting with the Amerisource --</p> <p>22 AmerisourceBergen DEA headquarters, August</p> <p>23 10th, 2005.</p> <p>24 Are we on the same page?</p> <p>25 A. Same as displayed?</p>
<p style="text-align: right;">Page 294</p> <p>1 MR. MIGLIORI: No. I'm about to go</p> <p>2 into the question.</p> <p>3 Are we going to do this the whole</p> <p>4 thing?</p> <p>5 You can -- you can put it --</p> <p>6 anything you want on the record, and we can</p> <p>7 argue about it later.</p> <p>8 MS. MAINIGI: Well, we may have to</p> <p>9 call the special master and argue about it now.</p> <p>10 But go ahead.</p> <p>11 MR. MIGLIORI: That's -- that's not</p> <p>12 how this works.</p> <p>13 MS. MAINIGI: Well, I think it is.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. In 2005 you started in Washington,</p> <p>16 D.C., correct?</p> <p>17 A. Correct.</p> <p>18 Q. Everything that you've testified to</p> <p>19 prior to 2005 is based on information that you</p> <p>20 would have learned from others about the</p> <p>21 history of the diversion program in Washington,</p> <p>22 D.C., correct?</p> <p>23 MS. MAINIGI: Objection. Form.</p> <p>24 Misstates his testimony. His testimony speaks</p> <p>25 for itself.</p>	<p style="text-align: right;">Page 296</p> <p>1 Q. Yes.</p> <p>2 A. Okay. Yes, sir.</p> <p>3 Q. All right. Now, this is a</p> <p>4 PowerPoint that you helped put together for</p> <p>5 purposes of distributor briefings, correct?</p> <p>6 Was that your testimony?</p> <p>7 MS. McCLURE: Objection. Asked and</p> <p>8 answered.</p> <p>9 THE WITNESS: Correct.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. Counsel didn't go through with you</p> <p>12 all of the pages. So I want to take some time</p> <p>13 to do that now. Okay?</p> <p>14 There was testimony that these were</p> <p>15 -- that there were concerns at this time in</p> <p>16 2005 about Internet pharmacies, correct?</p> <p>17 A. Correct.</p> <p>18 MS. MAINIGI: Correct.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. But Internet pharmacies were not the</p> <p>21 only concern you had in 2005, was it?</p> <p>22 MS. MAINIGI: Objection. Misstates</p> <p>23 his testimony.</p> <p>24 THE WITNESS: No.</p> <p>25 BY MR. MIGLIORI:</p>



<p style="text-align: right;">Page 297</p> <p>1 Q. What other concerns in 2005 did you</p> <p>2 have relative to the Controlled Substances Act</p> <p>3 and the registrants when you were doing these</p> <p>4 briefings?</p> <p>5 MS. MAINIGI: Objection.</p> <p>6 THE WITNESS: I'll try to say it in</p> <p>7 a nutshell: to maintain, oversee and protect</p> <p>8 the closed system of distribution at all</p> <p>9 levels.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. Was that the role of the Drug</p> <p>12 Enforcement Agency, as you understood it in</p> <p>13 your experience?</p> <p>14 A. Yes, sir.</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 BY MR. MIGLIORI:</p> <p>17 Q. And, in fact, this PowerPoint</p> <p>18 presentation has some general slides that</p> <p>19 relates to that mission, correct?</p> <p>20 MS. MAINIGI: Objection. The</p> <p>21 document speaks for itself.</p> <p>22 THE WITNESS: Correct.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. I want to show you the slide that</p> <p>25 says "Issues to Consider."</p>	<p style="text-align: right;">Page 299</p> <p>1 pharmacy?</p> <p>2 MS. MAINIGI: Objection.</p> <p>3 THE WITNESS: They could.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. Do they apply to all registrants in</p> <p>6 the closed system of distribution for</p> <p>7 controlled substances?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 THE WITNESS: Yes, sir, they could.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. What's the importance of looking at</p> <p>12 things like the payment method?</p> <p>13 Why is that important?</p> <p>14 MS. McCLURE: Objection.</p> <p>15 THE WITNESS: I'm sorry. I didn't</p> <p>16 hear the --</p> <p>17 BY MR. MIGLIORI:</p> <p>18 Q. Why would looking at the payment</p> <p>19 method be an important issue to consider as an</p> <p>20 example?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: Most people at this</p> <p>23 time were covered by insurance. And when</p> <p>24 insurance -- insurances, in our experience,</p> <p>25 felt that if they were paying too frequently,</p>
<p style="text-align: right;">Page 298</p> <p>1 Did you help prepare this slide?</p> <p>2 A. Correct.</p> <p>3 Q. What does this slide represent?</p> <p>4 A. From past cases, experiences,</p> <p>5 issues. This -- these -- these are items that</p> <p>6 could be encountered, not inclusive, not every</p> <p>7 one of them. But they are some items to look</p> <p>8 at conducting your business from distributor to</p> <p>9 pharmacy or practitioner. There could be tails</p> <p>10 that there might be some amiss or awry.</p> <p>11 Q. Does this only apply to Internet</p> <p>12 sales?</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 THE WITNESS: Absolutely not.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. So when you have issues to consider,</p> <p>17 like the frequency of order or size of order or</p> <p>18 range of products purchased, were those applied</p> <p>19 to the more traditional relationship of</p> <p>20 distributor to pharmacy?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: They absolutely could.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. Do they apply to the relationship</p> <p>25 between a distributor and a chain retail</p>	<p style="text-align: right;">Page 300</p> <p>1 they wouldn't authorize payment. A reflection</p> <p>2 of addiction is to pay cash.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. Is there a term for that kind of</p> <p>5 issue?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 BY MR. MIGLIORI:</p> <p>8 Q. In the DEA is that referred to as</p> <p>9 a -- a red flag?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 MS. McCLURE: Objection.</p> <p>12 THE WITNESS: I said "tails." You</p> <p>13 could say red flag, yes.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. Okay. What about percentage of</p> <p>16 controlled to noncontrolled substances; why is</p> <p>17 that important?</p> <p>18 MS. McCLURE: Objection.</p> <p>19 THE WITNESS: We had some</p> <p>20 benchmarks. And I -- truly a benchmark, there</p> <p>21 are variables in those -- in those benchmarks.</p> <p>22 But the amount of controlled versus</p> <p>23 noncontrolled, noncontrolled products would be</p> <p>24 like your geriatric product, your diabetes,</p> <p>25 your heart medications. All those things</p>

<p style="text-align: right;">Page 301</p> <p>1 constituted a greater bulk of business, in our 2 experience and observations, as compared to 3 controlled substances. 4 If there was a outside of that 5 pattern, look at it, see if it -- there's some 6 justification to it. There potentially could 7 be. But it's a tail or a red flag. 8 BY MR. MIGLIORI: 9 Q. Were these tails or red flags 10 understood and appreciated at the time of this 11 presentation? 12 That is, in your experience, was 13 this something that was appreciated in the 14 industry? 15 MR. STEPHENS: Objection. 16 MS. MAINIGI: Objection to form. No 17 foundation. 18 THE WITNESS: In my interchange with 19 them doing these briefings, yes. 20 BY MR. MIGLIORI: 21 Q. Were these red flags or tails 22 appreciated when you started in 1995 in dealing 23 with field investigations for pseudoephedrine 24 and methamphetamines? 25 MS. MAINIGI: Objection to form.</p>	<p style="text-align: right;">Page 303</p> <p>1 Controlled Substances Act, as you understood it 2 in your experience? 3 MS. MAINIGI: Objection. 4 THE WITNESS: Absolutely. 5 BY MR. MIGLIORI: 6 Q. And was that true when the Act was 7 enacted in the early 1970s? 8 MS. MAINIGI: Objection. 9 THE WITNESS: Yes, sir. 10 BY MR. MIGLIORI: 11 Q. Was it certainly true as of the time 12 that you started at the DEA in 1995? 13 MS. MAINIGI: Objection. 14 THE WITNESS: Yes, sir. 15 BY MR. MIGLIORI: 16 Q. You give some examples of cases, 17 supreme court cases and others, that relate to 18 Internet pharmacies. And then you have a 19 section in your PowerPoint presentation. This 20 is your August -- again, your August 2005 21 distributor briefing. And here you have a 22 slide that says "Suspicious Orders." 23 Can you read that? 24 MS. MAINIGI: Objection. 25 MR. MIGLIORI: I'm sorry. They're</p>
<p style="text-align: right;">Page 302</p> <p>1 MR. STEPHENS: Objection. 2 THE WITNESS: Yes, sir. 3 BY MR. MIGLIORI: 4 Q. These weren't new issues in 2005 5 when you're giving these briefings, were they? 6 MS. MAINIGI: Objection. 7 THE WITNESS: No, sir. 8 BY MR. MIGLIORI: 9 Q. And these weren't limited to 10 Internet sales, were they? 11 MS. MAINIGI: Objection. 12 THE WITNESS: Yes, sir -- no. I'm 13 sorry. No, they were not limited to just 14 Internet. 15 BY MR. MIGLIORI: 16 Q. The next page -- I don't think you 17 saw this last week either. It says "DEA 18 Distributor Registrations" and gives the 19 citation. 20 And then it says: "Is a 21 registration in the public interest? 22 Maintenance of effective controls against 23 diversion of particular controlled substances 24 into other than legitimate medical channels." 25 Is that part of the purpose for the</p>	<p style="text-align: right;">Page 304</p> <p>1 not numbered. 2 THE WITNESS: You want me to read 3 this? 4 MR. MIGLIORI: If you don't mind. 5 THE WITNESS: Reporting a suspicious 6 order to DEA does not, emphasis on not, relieve 7 the distributor of the responsibility to 8 maintain effective controls against diversion. 9 BY MR. MIGLIORI: 10 Q. What's the importance of that? 11 MS. MAINIGI: Objection. 12 THE WITNESS: There's 13 accountability. There's a responsibility not 14 to let -- if you go back to what you said at 15 823, maintain effective controls, medical 16 channels. Don't let it out there. 17 BY MR. MIGLIORI: 18 Q. Does that only relate to Internet 19 sales? 20 MS. MAINIGI: Objection. 21 THE WITNESS: No, sir. 22 BY MR. MIGLIORI: 23 Q. Does that apply to the sale of all 24 controlled substances within the closed system? 25 MS. MAINIGI: Objection.</p>

<p style="text-align: right;">Page 305</p> <p>1 THE WITNESS: It the covers all</p> <p>2 controls.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. I'm going to just flash it on the</p> <p>5 screen now. We'll get back to it later. But</p> <p>6 Exhibit 26, if you remember, counsel gave you</p> <p>7 what's called an ingredient limit report.</p> <p>8 Do you remember seeing that</p> <p>9 document?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Does submitting that report on a</p> <p>12 monthly basis satisfy the requirement in this</p> <p>13 PowerPoint slide that we just read?</p> <p>14 MS. MAINIGI: Objection. Outside of</p> <p>15 the scope.</p> <p>16 BY MR. MIGLIORI:</p> <p>17 Q. In your experience?</p> <p>18 MS. MAINIGI: Objection. Form.</p> <p>19 Objection. Outside of the scope.</p> <p>20 THE WITNESS: No, sir.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. Why not?</p> <p>23 A. It doesn't tell me what you've done,</p> <p>24 why you drew this conclusion. It's just they</p> <p>25 exceeded a limit. What does -- what is your</p>	<p style="text-align: right;">Page 307</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 THE WITNESS: Correct.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. This report, Exhibit 26, was just</p> <p>5 that -- those sales or purchases that were made</p> <p>6 that were in excess of the benchmarks, correct?</p> <p>7 MS. MAINIGI: Object to form. Lacks</p> <p>8 foundation. He said he'd never even seen the</p> <p>9 report before.</p> <p>10 THE WITNESS: I'm sorry, sir. Could</p> <p>11 you --</p> <p>12 MR. MIGLIORI: Sure.</p> <p>13 THE WITNESS: -- restate that</p> <p>14 question.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. Is Exhibit 26 a subset of the</p> <p>17 transactions submitted to ARCOS?</p> <p>18 MS. MAINIGI: Objection.</p> <p>19 THE WITNESS: Yes, sir.</p> <p>20 BY MR. MIGLIORI:</p> <p>21 Q. And by its description, it's the</p> <p>22 excess purchases over benchmark for the month,</p> <p>23 correct?</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 MS. McCCLURE: Objection.</p>
<p style="text-align: right;">Page 306</p> <p>1 limit? Why did you set that limit? What is</p> <p>2 your experience behind that limit?</p> <p>3 Q. Is everything in Exhibit 26, the</p> <p>4 ingredient limit report, in excess of</p> <p>5 benchmarks?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 THE WITNESS: Now that I found the</p> <p>8 document, could you please repeat the question.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. Sure. I'm sorry.</p> <p>11 Is everything that's in this</p> <p>12 ingredient limit report, Exhibit No. 26, in</p> <p>13 excess of the set benchmarks?</p> <p>14 MS. MAINIGI: Objection.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. Is this an excessive purchase</p> <p>17 report?</p> <p>18 MS. MAINIGI: Objection.</p> <p>19 THE WITNESS: This would be an</p> <p>20 example of what we called Excessive Purchase</p> <p>21 Reports.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. So the ARCOS data that you got</p> <p>24 monthly was data of all transactions for the</p> <p>25 month, correct?</p>	<p style="text-align: right;">Page 308</p> <p>1 THE WITNESS: Correct.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Are these reported, as you</p> <p>4 understood it in your experience, at the time</p> <p>5 that they're discovered?</p> <p>6 MS. McCCLURE: Objection.</p> <p>7 MS. MAINIGI: Objection. Outside</p> <p>8 the scope. And objection to form.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. In your experience.</p> <p>11 A. No, sir.</p> <p>12 MS. McCCLURE: Same objections.</p> <p>13 MS. MAINIGI: Same objections.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. For Suspicious Order Reporting, in</p> <p>16 your experience was it compliant to submit a</p> <p>17 report on a monthly basis?</p> <p>18 MS. MAINIGI: Objection. Form.</p> <p>19 Objection foundation.</p> <p>20 THE WITNESS: I don't understand the</p> <p>21 question. I'm sorry.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. Sure. I'll -- we'll go to the --</p> <p>24 I'll show you through the slide.</p> <p>25 I'll -- I'll strike the question.</p>

<p style="text-align: right;">Page 309</p> <p>1 The next slide on the PowerPoint</p> <p>2 from exhibit -- I think this was 10 -- states:</p> <p>3 "The basic obligation of the Controlled</p> <p>4 Substances Act," right, "that a registrant is</p> <p>5 required to design and operate a system to</p> <p>6 identify suspicious orders," correct?</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 THE WITNESS: Correct.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. And the next point on your slide</p> <p>11 from August of 2005 says: The -- "Report</p> <p>12 suspicious orders to DEA when discovered."</p> <p>13 In your experience, in your history,</p> <p>14 "when discovered" means what to you?</p> <p>15 MS. MAINIGI: Objection. Form.</p> <p>16 Objection. Calls for a legal conclusion.</p> <p>17 MS. McCLURE: Objection. Outside</p> <p>18 the scope.</p> <p>19 MR. MIGLIORI: Go ahead.</p> <p>20 THE WITNESS: If you're going --</p> <p>21 when you just determine that it's suspicious.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. Does that mean gather them</p> <p>24 and report them on a monthly basis?</p> <p>25 MS. MAINIGI: Objection.</p>	<p style="text-align: right;">Page 311</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 THE WITNESS: If it is deemed</p> <p>3 suspicious, you should resolve that suspicion</p> <p>4 before fulfilling that order. Because</p> <p>5 otherwise now you're letting the product go out</p> <p>6 to do its damage.</p> <p>7 BY MR. MIGLIORI:</p> <p>8 Q. The next slide talks about the DEA</p> <p>9 cannot tell a distributor if an order is</p> <p>10 legitimate or not.</p> <p>11 Do you recall that in your</p> <p>12 presentation in the distributor briefings?</p> <p>13 A. Repeatedly.</p> <p>14 Q. Was that true when you first got to</p> <p>15 the DEA, in your experience, in 1995?</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 THE WITNESS: Yes, sir.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. Did it remain true through to your</p> <p>20 retirement in 2017?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: Yes, sir.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. In your experience, did you express</p> <p>25 that ever to registrants when asked?</p>
<p style="text-align: right;">Page 310</p> <p>1 THE WITNESS: No, sir. It says</p> <p>2 "when discovered."</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. On Exhibit 26, counsel referred to</p> <p>5 this as Excessive Purchase Reports.</p> <p>6 Are purchases the same as orders?</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 THE WITNESS: These are consummated</p> <p>9 or completed sales. They're gone. They're</p> <p>10 done.</p> <p>11 BY MR. MIGLIORI:</p> <p>12 Q. And what's a suspicious order?</p> <p>13 MS. McCLURE: Objection.</p> <p>14 THE WITNESS: Order is I have</p> <p>15 submitted a request to you; it's in your hands;</p> <p>16 you determine to sell it or not, fulfill it or</p> <p>17 not. It's an order.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. If an order is determined to be --</p> <p>20 or suspected to be suspicious, is it to be</p> <p>21 consummated, to use your term; is the sale to</p> <p>22 be consummated and sent out the door?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 BY MR. MIGLIORI:</p> <p>25 Q. In your experience?</p>	<p style="text-align: right;">Page 312</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 THE WITNESS: Yes, sir.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. Why is that true?</p> <p>5 MS. MAINIGI: Objection.</p> <p>6 THE WITNESS: They had the</p> <p>7 registration. They understand control</p> <p>8 substances. They've more fact than I do</p> <p>9 in making that decision to fulfill or not</p> <p>10 fulfill an order.</p> <p>11 I cannot draw the conclusions that</p> <p>12 they can. And I can't bless or run your</p> <p>13 business.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. What is your understanding, in your</p> <p>16 experience, of who or in whom the Controlled</p> <p>17 Substances Act puts that obligation?</p> <p>18 MS. MAINIGI: Objection.</p> <p>19 THE WITNESS: In these particular</p> <p>20 areas, the onus of responsibility is upon the</p> <p>21 industry.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. And the language of the act that's</p> <p>24 the registrant?</p> <p>25 A. Yes, sir.</p>

<p style="text-align: right;">Page 313</p> <p>1 Q. And registrants include</p> <p>2 distributors, correct?</p> <p>3 A. Correct.</p> <p>4 Q. A registrant includes pharmacies,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Including chain pharmacies, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And pharmaceutical manufacturers are</p> <p>10 also DEA registrants, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And so these provisions would apply</p> <p>13 to all of those groups, correct, in your</p> <p>14 experience and your -- to your understanding?</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 THE WITNESS: It would apply to all</p> <p>17 DEA registrants.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. You give some examples of</p> <p>20 pharmacies, and then you give a summary. And I</p> <p>21 want to ask you whether this applies only to</p> <p>22 Internet sales or to the industry as a whole.</p> <p>23 Okay? I'll go through each one.</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 BY MR. MIGLIORI:</p>	<p style="text-align: right;">Page 315</p> <p>1 Q. The next page of the summary says:</p> <p>2 "A pattern of drugs being distributed to</p> <p>3 pharmacies who are diverting controlled</p> <p>4 substances demonstrates the lack of effective</p> <p>5 controls against diversion by the distributor."</p> <p>6 Does that apply only to Internet</p> <p>7 pharmacies, or was that industrywide?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 THE WITNESS: Industrywide.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. "The DEA registration of the</p> <p>12 distributor could be revoked under public</p> <p>13 interest grounds."</p> <p>14 Does that apply only to Internet</p> <p>15 pharmacies, or does that apply industrywide?</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 THE WITNESS: Across the board.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. Did you make that clear during these</p> <p>20 briefings, that it applied across the board?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: To the best of my</p> <p>23 recollection, yes.</p> <p>24 BY MR. MIGLIORI:</p> <p>25 Q. Summary says: "Any distributor</p>
<p style="text-align: right;">Page 314</p> <p>1 Q. "Prescriptions not written in the</p> <p>2 usual course of professional practice are not</p> <p>3 valid."</p> <p>4 Does that only apply to Internet</p> <p>5 sales, or does that apply to all sales within</p> <p>6 the system?</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 THE WITNESS: To all sales.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. "Drugs dispensed pursuant to invalid</p> <p>11 prescriptions are not for legitimate medical</p> <p>12 purpose. The drugs are diverted."</p> <p>13 Is that limited only to Internet</p> <p>14 sales, or is that industrywide?</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 THE WITNESS: Across the scope.</p> <p>17 BY MR. MIGLIORI:</p> <p>18 Q. The last bullet says: "Not limited</p> <p>19 to Internet pharmacies."</p> <p>20 Is that -- is that something that --</p> <p>21 is that a message that you had throughout these</p> <p>22 distributor briefings?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 THE WITNESS: Correct.</p> <p>25 BY MR. MIGLIORI:</p>	<p style="text-align: right;">Page 316</p> <p>1 who's selling controlled substances that are</p> <p>2 being dispensed outside the course of</p> <p>3 professional practice must stop immediately."</p> <p>4 Does that apply to industry or to</p> <p>5 Internet sales only?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 THE WITNESS: To industry.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. "And the DEA cannot guarantee that</p> <p>10 past failure to maintain effective controls</p> <p>11 against diversion will not result in action</p> <p>12 against a distributor."</p> <p>13 First off, what does that mean?</p> <p>14 A. If your practice has had a potential</p> <p>15 investigation or potential problems of</p> <p>16 diversion, attending this briefing, becoming</p> <p>17 knowledgeable, didn't make that go away.</p> <p>18 Q. So when you were at these briefings,</p> <p>19 I think you testified to presenting some</p> <p>20 information from data in -- from the ARCOS</p> <p>21 database.</p> <p>22 Do you recall saying that last week?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 THE WITNESS: Yes, sir.</p> <p>25 BY MR. MIGLIORI:</p>



<p style="text-align: right;">Page 317</p> <p>1 Q. And the data that you would look at, 2 was that data provided by that company that was 3 at the briefing? 4 MS. MAINIGI: Objection. 5 THE WITNESS: Absolutely. 6 BY MR. MIGLIORI: 7 Q. So the data you were looking at was 8 whatever that that company was providing to 9 you, that is to the ARCOS database, the origin 10 of it was the -- the registrant, correct? 11 MS. MAINIGI: Objection. 12 THE WITNESS: Absolutely. 13 BY MR. MIGLIORI: 14 Q. And at these briefings, you used 15 some of that data to point out to some of these 16 companies anomalies or tails that suggested 17 concerns that you might have about potential 18 suspicious orders, correct? 19 MS. MAINIGI: Objection. 20 THE WITNESS: Correct. 21 BY MR. MIGLIORI: 22 Q. That wasn't based on, in your 23 experience, reviewing other people's data, was 24 it? 25 MS. MAINIGI: Objection.</p>	<p style="text-align: right;">Page 319</p> <p>1 the meeting, if you were not there, there's no 2 other record of, to your knowledge, correct? 3 MS. MAINIGI: Objection. 4 THE WITNESS: No, sir. 5 BY MR. MIGLIORI: 6 Q. No, that's not correct; or no, 7 you -- you -- you didn't... 8 MS. MAINIGI: Objection. 9 THE WITNESS: There would be no 10 other communication. 11 BY MR. MIGLIORI: 12 Q. All right. But I think you 13 testified -- well, let me just ask you. 14 To your knowledge, were all of the 15 major distributors provided a briefing in 2005 16 or 2006? 17 MS. MAINIGI: Objection. 18 MR. STEPHENS: Object to form. 19 THE WITNESS: That would have been 20 our priority, yes. 21 BY MR. MIGLIORI: 22 Q. Did you also send letters to the 23 registrants around this period of time? 24 MS. MAINIGI: Objection. 25 THE WITNESS: I don't recall.</p>
<p style="text-align: right;">Page 318</p> <p>1 THE WITNESS: No, sir. 2 BY MR. MIGLIORI: 3 Q. And then at -- at least at the end 4 of these slides, it has you and your direct 5 supervisor, Michael Mapes, listed. 6 There were times when Mr. Mapes 7 presented this briefing to registrants or 8 distributors without you, correct? 9 A. There may have been occasion. Yes, 10 sir. 11 Q. And, in fact, I think in Exhibit 12 12 the Cardinal presentation of this information, 13 which counsel showed you, it was Michael Mapes 14 and Vickie Seeger from OD presenting, correct? 15 This was in August 22nd of 2005? 16 That's in the first paragraph here. 17 I'm sorry. It's right in the middle of the 18 first paragraph. 19 A. Yes, sir. 20 Q. Who is Vickie Seeger? 21 A. She was a -- she was a staff 22 coordinator. And my recollection is that she 23 worked in liaison and policy. But I'm not 24 definitive on that. 25 Q. So what was verbally communicated at</p>	<p style="text-align: right;">Page 320</p> <p>1 BY MR. MIGLIORI: 2 Q. Are you familiar with letters that 3 are referred to as dear-registrant letters -- 4 MS. MAINIGI: Objection. 5 BY MR. MIGLIORI: 6 Q. -- from your supervisor, Joe 7 Rannazzisi? 8 MS. McCLURE: Objection. Misstates 9 the record. 10 THE WITNESS: Not particularly. 11 MR. MIGLIORI: All right. Let me -- 12 (Deposition Exhibit 30 was marked 13 for identification.) 14 MR. MIGLIORI: Let me show you 15 Exhibit No. 30. 16 MS. MAINIGI: Counsel, do you have a 17 copy? 18 MR. MIGLIORI: Yes. 19 This one is September 27th. 20 MR. BENNETT: Counsel, do you happen 21 to have one more copy? 22 MR. MIGLIORI: I have literally one 23 more copy. 24 MR. BENNETT: Thank you. 25 MR. MIGLIORI: It's Exhibit 30.</p>



<p style="text-align: right;">Page 321</p> <p>1 MR. BENNETT: Thank you.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Take a moment to look at this.</p> <p>4 Have you reviewed it?</p> <p>5 A. I have reviewed it.</p> <p>6 Q. Have you seen that before?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And did you play any role --</p> <p>9 first of all, in September of 2006 were you</p> <p>10 still then in the headquarters in Washington,</p> <p>11 D.C. of the Drug Enforcement Administration?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And did you play a role in -- in</p> <p>14 forming this letter of Mr. Joe Rannazzisi?</p> <p>15 I'll show you the signature on the</p> <p>16 last page.</p> <p>17 MS. McCLURE: Objection.</p> <p>18 THE WITNESS: None whatsoever.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. H okay. Ad you seen it though when</p> <p>21 it went out or roughly around the time that it</p> <p>22 had gone out?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 THE WITNESS: I only saw it after it</p> <p>25 was published and sent out and only in passing.</p>	<p style="text-align: right;">Page 323</p> <p>1 prescription drug abuse problem our nation</p> <p>2 currently faces."</p> <p>3 Did you understand that this was not</p> <p>4 a new program but a summary or -- or</p> <p>5 reiteration of what the obligations are under</p> <p>6 the Controlled Substances Act?</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 THE WITNESS: Yes, sir.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. In giving background, your</p> <p>11 supervisor wrote: "As each of you is</p> <p>12 undoubtedly aware, the abuse, nonmedical use of</p> <p>13 controlled prescription drugs, is a serious and</p> <p>14 growing health problem in this country."</p> <p>15 Was that consistent with and</p> <p>16 supportive of your efforts in the distributor</p> <p>17 initiative?</p> <p>18 MS. MAINIGI: Objection.</p> <p>19 THE WITNESS: Yes, sir.</p> <p>20 BY MR. MIGLIORI:</p> <p>21 Q. "DEA has an obligation to combat</p> <p>22 this problem as one of the agency's core</p> <p>23 functions is to prevent the diversion of</p> <p>24 controlled substances into illicit channels.</p> <p>25 Congress assigned DEA to carry out this</p>
<p style="text-align: right;">Page 322</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. And in your experience and to your</p> <p>3 knowledge, was this part of the effort within</p> <p>4 your department to make sure that registrants</p> <p>5 understood and appreciated what their</p> <p>6 obligations were under the Controlled</p> <p>7 Substances Act?</p> <p>8 MS. MAINIGI: Objection. Absolutely</p> <p>9 no foundation. He said he never saw it before</p> <p>10 it went out and saw it in passing after.</p> <p>11 BY MR. MIGLIORI:</p> <p>12 Q. Go ahead.</p> <p>13 A. It supports the efforts that were</p> <p>14 trying to be done cross the board in the</p> <p>15 agency.</p> <p>16 Q. Did it support, in your experience,</p> <p>17 the efforts that you were trying to accomplish</p> <p>18 with the distributor initiative?</p> <p>19 MS. MAINIGI: Objection.</p> <p>20 THE WITNESS: It did.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. If you look in the first paragraph,</p> <p>23 it says: "The purpose of the letter is to</p> <p>24 reiterate the responsibilities of controlled</p> <p>25 substance distributors in view of the</p>	<p style="text-align: right;">Page 324</p> <p>1 function through enforcement of the Controlled</p> <p>2 Substances Act and DEA regulations to implement</p> <p>3 the Act."</p> <p>4 Is that consistent with the message</p> <p>5 that you were trying to deliver in your</p> <p>6 experience in the distributor briefings?</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 THE WITNESS: Yes, sir.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. That is your role was enforcement of</p> <p>11 the provisions of the Controlled Substances</p> <p>12 Act, correct?</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 THE WITNESS: Correct.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. The obligations of a registrant were</p> <p>17 the focus of what you, as a distributor</p> <p>18 initiative, were trying to monitor and enforce,</p> <p>19 correct?</p> <p>20 MS. MAINIGI: Objection.</p> <p>21 THE WITNESS: Correct.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. "The Controlled Substances Act was</p> <p>24 designed by congress to combat diversion by</p> <p>25 providing for a closed system of drug</p>

<p style="text-align: right;">Page 325</p> <p>1 distribution in which all legitimate handlers 2 of controlled substances must obtain a DEA 3 registration and, as a condition of maintaining 4 such registration, must take reasonable steps 5 to ensure that their registration is not being 6 utilized as a source of diversion." 7 Was that consistent with the 8 message, in your experience, that you were 9 trying to get across through the distributor 10 initiative? 11 MS. MAINIGI: Objection. 12 THE WITNESS: Yes, sir. 13 BY MR. MIGLIORI: 14 Q. That is, if a company wanted the 15 benefits of having a DEA registration for the 16 distribution and sale of controlled substance, 17 there were certain obligations that came with 18 that privilege, correct? 19 MS. MAINIGI: Objection. 20 THE WITNESS: Yes, sir. 21 BY MR. MIGLIORI: 22 Q. It says here that: "Distributors 23 are, of course, one of the key components of 24 the distribution chain. If the closed system 25 is to function properly, as congress</p>	<p style="text-align: right;">Page 327</p> <p>1 has a substantial and detrimental effect on the 2 health and general welfare of the American 3 people." 4 Is that consistent with the message 5 that you delivered, in your experience, in the 6 distributor initiative? 7 MS. MAINIGI: Objection. 8 THE WITNESS: Yes, sir. 9 BY MR. MIGLIORI: 10 Q. Mr. Rannazzisi talks about the 11 statutory scheme and legal duties of 12 distributors as DEA registrants. And he says: 13 "Although most distributors are already well 14 aware of the following legal principles, they 15 are reiterated here as additional background 16 for this discussion. 17 In your presentation of the 18 distributor initiative, did you reiterate legal 19 principles that most distributors were already 20 well aware of? 21 MS. MAINIGI: Objection. 22 THE WITNESS: Yes, sir. 23 BY MR. MIGLIORI: 24 Q. "The CSA uses a concept of 25 registration as a primary means by which</p>
<p style="text-align: right;">Page 326</p> <p>1 envisioned, distributors must be vigilant in 2 deciding whether prospective customer can be 3 trusted to deliver the controlled substance 4 only for lawful purposes." 5 Is that consistent with the message 6 you tried to deliver in the distributor 7 initiative? 8 MS. MAINIGI: Objection. 9 THE WITNESS: Yes, sir. 10 BY MR. MIGLIORI: 11 Q. The Controlled Substances Act puts 12 the obligation on who to make sure that the 13 customer that receives controlled substances is 14 the intend and appropriate customer? 15 MS. MAINIGI: Objection. 16 THE WITNESS: The onus of 17 responsibility is upon the registrant. 18 BY MR. MIGLIORI: 19 Q. Is it upon the DEA? 20 MR. STEPHENS: Objection. 21 THE WITNESS: No, sir. 22 BY MR. MIGLIORI: 23 Q. "This responsibility is critical as 24 congress has expressly declared that the 25 illegal distribution of controlled substances</p>	<p style="text-align: right;">Page 328</p> <p>1 manufacturers, distributors and practitioners 2 are given legal authority to handle controlled 3 substance. Registration also serves as the 4 primary incentive for compliance with the 5 regulatory requirements of the CSA and" DS -- 6 "DEA regulations as congress gave DEA the 7 authority under the ACT to revoke and suspend 8 registrations for failure to comply with these 9 requirements." 10 Was one of the enforcement 11 mechanisms of the DEA, in your experience, the 12 revocation and suspension of registrations when 13 companies, in fact, did not comply with the 14 provisions of the Controlled Substances Act? 15 MS. MAINIGI: Objection. 16 THE WITNESS: Yes, sir. 17 BY MR. MIGLIORI: 18 Q. And did you make that known in your 19 distributor initiative briefings that one of 20 the consequences of failing to comply with the 21 CSA was a potential suspension or revocation of 22 registration? 23 MS. MAINIGI: Objection. 24 THE WITNESS: Yes, sir. 25 BY MR. MIGLIORI:</p>

<p style="text-align: right;">Page 329</p> <p>1 Q. All right. I'm not going to go 2 through the whole rest of it. But in the -- 3 right in the middle of this page, there is the 4 operative language I think in two days nobody 5 has actually asked you about. It's this box 6 here -- here. 7 It says: "The registrant shall 8 design and operate a system to disclose to the 9 registrant suspicious orders of controlled 10 substances. The registrant shall inform the 11 field division of the administration in his 12 area of suspicious orders when discovered by 13 the registrant. Suspicious orders include 14 orders of unusual size, orders deviating 15 substantially from a normal pattern, and orders 16 of unusual frequency." 17 Is that the operative language, in 18 your experience, of the Controlled Substances 19 Act when you were giving the distributor 20 initiative briefings? 21 MS. MAINIGI: Objection. 22 THE WITNESS: Yes, sir. 23 BY MR. MIGLIORI: 24 Q. And that was in existence when you 25 got to the DEA in 1995, correct?</p>	<p style="text-align: right;">Page 331</p> <p>1 Q. Independent of that obligation, was 2 there an -- was there also a concurrent 3 obligation for registrants to know their 4 customer? 5 MS. MAINIGI: Objection. 6 THE WITNESS: Yes, sir. 7 BY MR. MIGLIORI: 8 Q. This letter says: "Thus, in 9 addition to reporting all suspicious orders, a 10 distributor has a statutory responsibility to 11 exercise due diligence to avoid filling 12 suspicious orders that might be diverted into 13 other than legitimate medical, scientific and 14 industrial channels. Failure to exercise such 15 due diligence could, as circumstances warrant, 16 provide a statutory basis for revocation of 17 suspension of a distributor's registration. 18 What is due diligence? 19 MS. MAINIGI: Objection. 20 MS. McCLURE: Objection to the 21 commentary in the record prior to asking the 22 question. 23 BY MR. MIGLIORI: 24 Q. In your understanding, what does 25 "due diligence" mean in this context?</p>
<p style="text-align: right;">Page 330</p> <p>1 MS. MAINIGI: Objection. 2 THE WITNESS: Yes, sir. 3 Q. And that was in existence as the 4 operative language when you retired in 2017, 5 correct? 6 MS. MAINIGI: Objection. 7 THE WITNESS: Yes, sir. 8 BY MR. MIGLIORI: 9 Q. Was it enough simply to be compliant 10 with the Controlled Substances Act, in your 11 experience, in your understanding, to just 12 monitor whether or not an order was suspicious 13 or deviated in size, frequency or pattern from 14 prior orders? 15 MS. MAINIGI: Objection. 16 THE WITNESS: No, sir. 17 BY MR. MIGLIORI: 18 Q. What else was required? 19 MS. MAINIGI: Objection. 20 THE WITNESS: If you deemed an order 21 suspicious, resolve that conflict. In that 22 resolution of resolving the conflict, if it did 23 not meet the criteria of a legitimate order, 24 take the appropriate action. 25 BY MR. MIGLIORI:</p>	<p style="text-align: right;">Page 332</p> <p>1 MS. MAINIGI: Objection. 2 THE WITNESS: Meeting your 3 requirements, obligations, responsibilities as 4 stipulated by both the CSA and the CFR. 5 BY MR. MIGLIORI: 6 Q. Did those responsibilities to 7 conduct due diligence exist when you got to the 8 DEA in 1995? 9 MS. MAINIGI: Objection. 10 THE WITNESS: Yes, sir. 11 BY MR. MIGLIORI: 12 Q. Again, Mr. Rannazzisi goes on to say 13 in the next paragraph: "A distributor may not 14 simply rely on the fact that the person placing 15 the suspicious order is a DEA registrant and 16 turn a blind eye to the suspicious 17 circumstances. Again, to maintain effective 18 controls against diversion, as Section 823(e) 19 requires, the distributor should exercise due 20 care in confirming the legitimacy of all orders 21 prior to filling." 22 MS. McCLURE: Objection to the 23 extent that that portion that you've read is 24 not up on the record. So to the extent that 25 misstates the document from which you are</p>

<p style="text-align: right;">Page 333</p> <p>1 reading, the document speaks for itself.</p> <p>2 MR. MIGLIORI: I have no idea what</p> <p>3 you just said.</p> <p>4 You're saying because it's not on</p> <p>5 the screen.</p> <p>6 MS. MAINIGI: She's saying you</p> <p>7 didn't read it right.</p> <p>8 MR. MIGLIORI: I didn't read it</p> <p>9 right or --</p> <p>10 MS. McCCLURE: To the extent -- to</p> <p>11 the extent you didn't, objection.</p> <p>12 MR. MIGLIORI: Let me ask the</p> <p>13 question.</p> <p>14 Is it the way I read it or the fact</p> <p>15 that it wasn't on the screen?</p> <p>16 I couldn't make heads or tails.</p> <p>17 MS. McCCLURE: We couldn't determine</p> <p>18 where you were reading from on the screen. It</p> <p>19 was not visible to us.</p> <p>20 MR. MIGLIORI: Fair enough. I'll</p> <p>21 fix it.</p> <p>22 MS. McCCLURE: So to the extent you</p> <p>23 didn't read it correctly --</p> <p>24 MR. MIGLIORI: Thank you.</p> <p>25 MS. McCCLURE: -- I object.</p>	<p style="text-align: right;">Page 335</p> <p>1 registrant's obligations under the Controlled</p> <p>2 Substances Act?</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 THE WITNESS: Yes, sir.</p> <p>5 BY MR. MIGLIORI:</p> <p>6 Q. There was some questions last week</p> <p>7 about testimony you gave in the past concerning</p> <p>8 whether the CSA requires documentation.</p> <p>9 Do you remember that questioning?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 THE WITNESS: Yes, sir.</p> <p>12 BY MR. MIGLIORI:</p> <p>13 Q. Now, counsel -- strike that.</p> <p>14 Your answer, as I recall, was that</p> <p>15 the CSA does not specifically require</p> <p>16 documentation in its provisions; is that true?</p> <p>17 MS. MAINIGI: Objection. His answer</p> <p>18 under oath last week speaks for itself.</p> <p>19 BY MR. MIGLIORI:</p> <p>20 Q. Go ahead.</p> <p>21 A. Yes, sir.</p> <p>22 Q. But in prior testimony, you spoke</p> <p>23 about best practices relative to documentation,</p> <p>24 correct?</p> <p>25 MS. MAINIGI: Objection.</p>
<p style="text-align: right;">Page 334</p> <p>1 MR. MIGLIORI: I'll fix it.</p> <p>2 I have to do this again.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. Mr. Rannazzisi says: "In a similar</p> <p>5 vein, given the requirement under Section</p> <p>6 823(e) that a distributor maintain effective</p> <p>7 controls against diversion, a distributor may</p> <p>8 not simply rely on the fact that the person</p> <p>9 placing a suspicious order is a DEA registrant</p> <p>10 and turn a blind eye to the suspicious</p> <p>11 circumstances. Again, to maintain effective</p> <p>12 controls against diversion, as Section 823(e)</p> <p>13 requires, the distributor should exercise due</p> <p>14 care in confirming the legitimacy of all orders</p> <p>15 prior to filling."</p> <p>16 Was that consistent with the</p> <p>17 messages that you were giving in the</p> <p>18 distributor initiative briefings?</p> <p>19 MS. MAINIGI: Objection.</p> <p>20 THE WITNESS: Yes, sir.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. And would failure -- in your</p> <p>23 experience, would failure to exercise the due</p> <p>24 care in confirming the legitimacy of all orders</p> <p>25 prior to filling be a violation of the</p>	<p style="text-align: right;">Page 336</p> <p>1 What prior testimony?</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Do you believe that documentation is</p> <p>4 necessary for good best practices in complying</p> <p>5 with the Controlled Substances Act?</p> <p>6 MS. MAINIGI: Objection. Misstates</p> <p>7 his prior testimony. Vague. Ambiguous.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. Go ahead.</p> <p>10 A. Yes, sir.</p> <p>11 Q. Why?</p> <p>12 A. If you can't show me what you've</p> <p>13 done, explained or give -- besides -- you've</p> <p>14 got to document everything that you do. It</p> <p>15 shows what you did.</p> <p>16 When I do an investigation, I have</p> <p>17 to document what I did. It shows what I did.</p> <p>18 When the IRS audited me about 12 years ago, I</p> <p>19 was about -- I had to come up with paper I</p> <p>20 didn't know I had.</p> <p>21 Everything is critical. Best</p> <p>22 practices -- business operated in our system --</p> <p>23 everybody should -- best practices. This is</p> <p>24 why I did what I did, as a company, as a</p> <p>25 decision.</p>

<p style="text-align: right;">Page 337</p> <p>1 Q. Is that a message that you gave 2 during your distributor initiative briefings? 3 MS. MAINIGI: Objection. 4 THE WITNESS: Absolutely. 5 BY MR. MIGLIORI: 6 Q. In Mr. Rannazzisi's letter on the 7 last paragraph of this page, it says: 8 "Depending on the circumstances, the failure to 9 keep or furnish required records might also be 10 the basis for civil fines or criminal penalties 11 under the CSA as provided in 21 USC 842." 12 Was that consistent with the 13 messages that you gave during the distributor 14 initiative briefings? 15 MS. MAINIGI: Objection. 16 THE WITNESS: Yes, sir. 17 BY MR. MIGLIORI: 18 Q. Page 3 of Mr. Rannazzisi's letter 19 goes into circumstances that might be 20 indicative of diversion. And the first one is 21 "Ordering excessive quantities of limited 22 variety of controlled substances. Example, 23 ordering only phentermine, Hydrocodone or 24 alprazolam while ordering few, if any, other 25 drugs."</p>	<p style="text-align: right;">Page 339</p> <p>1 MS. MAINIGI: Objection. 2 THE WITNESS: Yes, sir. 3 BY MR. MIGLIORI: 4 Q. Can you explain that? 5 How does that work, in your 6 experience? 7 MS. MAINIGI: Objection. 8 THE WITNESS: What is their purpose. 9 Who is their clientele. Is there any 10 speciality that they're going to be involved 11 in. What's their business model land role. 12 Who do they want to reach out to as a customer 13 base themselves. What products are they going 14 to be needing. Project to them quantities they 15 potentially may be ordering. 16 BY MR. MIGLIORI: 17 Q. Does the obligation for a registrant 18 to know the customer exist outside of actually 19 placing orders? 20 MS. MAINIGI: Objection. 21 THE WITNESS: How can you understand 22 what the customers needs if you don't know 23 their potential needs? 24 BY MR. MIGLIORI: 25 Q. So is it fair --</p>
<p style="text-align: right;">Page 338</p> <p>1 Is that a message that you were 2 delivering during the distributor initiative 3 meetings? 4 MS. MAINIGI: Objection. 5 THE WITNESS: Yes, sir. It was. 6 BY MR. MIGLIORI: 7 Q. "Ordering a limited variety of 8 controlled substances and quantities 9 disproportionate to the quantity of 10 noncontrolled medications ordered," was that a 11 message you were delivering in your distributor 12 initiatives? 13 MS. MAINIGI: Objection. 14 THE WITNESS: Yes, sir. 15 BY MR. MIGLIORI: 16 Q. Are these concepts that are 17 consistent with the obligation to know your 18 customer under the Controlled Substances Act? 19 MS. MAINIGI: Objection. 20 THE WITNESS: Yes, sir. 21 BY MR. MIGLIORI: 22 Q. Are the obligations to know your 23 customer on the Controlled Substances Act also 24 applicable when a new client is brought on 25 board for a registrant?</p>	<p style="text-align: right;">Page 340</p> <p>1 A. Especially in the context of control 2 substances. If it's labeled "controlled," it's 3 a dangerous product. Has potential to cause 4 harm. If that's the case, you're not trying 5 to -- know your customer. Know what they want 6 to do. 7 Q. Is that a requirement of the 8 Controlled Substances Act? 9 MS. MAINIGI: Objection. 10 THE WITNESS: Protect the legitimate 11 medical need. It's the obligation that you are 12 required to fulfill. 13 BY MR. MIGLIORI: 14 Q. And was that consistent with the 15 message that you delivered during the 16 distributor initiative briefings that you were 17 involved in, in your experience, in 2005 and 18 2006? 19 MS. MAINIGI: Objection. 20 THE WITNESS: Yes, sir. 21 BY MR. MIGLIORI: 22 Q. And was that a new concept in 2005, 23 or did that exist when you got to DEA in 1995? 24 MS. MAINIGI: Objection. 25 THE WITNESS: It existed in 1995</p>



<p style="text-align: right;">Page 341</p> <p>1 when I came on board.</p> <p>2 MR. MIGLIORI: All right. Why don't</p> <p>3 we take a break.</p> <p>4 THE VIDEOGRAPHER: We are going off</p> <p>5 the record.</p> <p>6 This is the end of Media Unit No. 1.</p> <p>7 The time is 10:23.</p> <p>8 (A short recess was taken.)</p> <p>9 THE VIDEOGRAPHER: We are going back</p> <p>10 on the record.</p> <p>11 This is the start of Media Unit No.</p> <p>12 2.</p> <p>13 The time is 10:42.</p> <p>14 You may proceed, Counsel.</p> <p>15 MR. MIGLIORI: Thank you.</p> <p>16 (Deposition Exhibit 31 was marked</p> <p>17 for identification.)</p> <p>18 MR. MIGLIORI: I want to show you</p> <p>19 what I've marked as Exhibit 31.</p> <p>20 BY MR. MIGLIORI:</p> <p>21 Q. Mr. Wright, I'm showing you what's</p> <p>22 been marked as Exhibit 31. This is a two-page</p> <p>23 letter, if you look on the second page, it's</p> <p>24 again signed by Joseph T. Rannazzisi.</p> <p>25 In December of 2007, was he still</p>	<p style="text-align: right;">Page 343</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 THE WITNESS: I do not know.</p> <p>3 BY MR. MIGLIORI:</p> <p>4 Q. Okay. You'll notice that the same</p> <p>5 language is in this December 27th, 2007 letter.</p> <p>6 It says: "The purpose of this</p> <p>7 letter is to reiterate the responsibilities of</p> <p>8 the controlled substance manufacturers and</p> <p>9 distributors to inform DEA of suspicious orders</p> <p>10 in accordance with 21 CFR 1301.74(b)."</p> <p>11 Based on your recollection of this</p> <p>12 letter, did you understand that to be the</p> <p>13 purpose of sending this out to registrants like</p> <p>14 Cardinal Health?</p> <p>15 MS. MAINIGI: Objection. He's</p> <p>16 testified he didn't have a recollection of</p> <p>17 the -- of the letter. And there's been no</p> <p>18 foundation.</p> <p>19 MR. MIGLIORI: All right. You can</p> <p>20 just -- you don't have to give that much</p> <p>21 information. I got it with --</p> <p>22 MS. MAINIGI: I am actually just</p> <p>23 allowing you --</p> <p>24 MR. MIGLIORI: Three or four words.</p> <p>25 MS. MAINIGI: -- to correct your</p>
<p style="text-align: right;">Page 342</p> <p>1 your -- your boss?</p> <p>2 MS. McCLURE: Object to form.</p> <p>3 THE WITNESS: He was still the</p> <p>4 deputy assistant administrator of diversion</p> <p>5 control.</p> <p>6 BY MR. MIGLIORI:</p> <p>7 Q. This is another letter.</p> <p>8 Have you ever -- did you have a</p> <p>9 chance to review it?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 THE WITNESS: Yes, sir.</p> <p>12 BY MR. MIGLIORI:</p> <p>13 Q. Are you familiar with this letter?</p> <p>14 MS. MAINIGI: Objection.</p> <p>15 THE WITNESS: Only in the context</p> <p>16 that it was sent out.</p> <p>17 BY MR. MIGLIORI:</p> <p>18 Q. Do you know to whom this was sent?</p> <p>19 MS. MAINIGI: Objection.</p> <p>20 THE WITNESS: This exhibit</p> <p>21 specifically to Cardinal Health. But this went</p> <p>22 out to -- industrywide.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. And did it go out to all</p> <p>25 registrants, to your knowledge?</p>	<p style="text-align: right;">Page 344</p> <p>1 question, Counsel.</p> <p>2 MR. MIGLIORI: I appreciate that.</p> <p>3 THE WITNESS: Yes, sir.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. Here in the second paragraph, it</p> <p>6 says: "In addition to and not in lieu of the</p> <p>7 general requirement under 21 USC 823 that</p> <p>8 manufacturers and distributors maintain</p> <p>9 effective controls against diversion, DEA</p> <p>10 regulations require all manufacturers and</p> <p>11 distributors to report suspicious orders of</p> <p>12 controlled substances. The title 21 CFR</p> <p>13 1301.74(b) specifically requires that the</p> <p>14 registrant design and operate a system to</p> <p>15 disclose to the registrant suspicious orders of</p> <p>16 controlled substances."</p> <p>17 That's the same language we've seen</p> <p>18 throughout your presentation.</p> <p>19 It's about the general obligations</p> <p>20 under Controlled Substances Act, correct?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: Correct, sir.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. "The regulation clearly indicates</p> <p>25 that it is the sole responsibility of the</p>



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1 registrant to design and operate such a  
2 system."  
3 Was that message consistent with the  
4 message that you delivered to the distributors  
5 in your briefings with them in 2005, 2006  
6 and -- and on?  
7 MS. MAINIGI: Objection.  
8 THE WITNESS: Yes, sir. It was.  
9 BY MR. MIGLIORI:  
10 Q. And it says: "Accordingly, DEA does  
11 not approve or otherwise endorse any specific  
12 system for reporting suspicious orders."  
13 Is that consistent with the  
14 messaging that you had in your distributor  
15 initiative briefings?  
16 MS. MAINIGI: Objection.  
17 THE WITNESS: Yes, sir. It was.  
18 BY MR. MIGLIORI:  
19 Q. In your experience, do you recall  
20 actually talking to registrants and telling  
21 them that the DEA does not approve or otherwise  
22 endorse a specific system for reporting  
23 suspicious orders?  
24 MS. MAINIGI: Objection.  
25 THE WITNESS: Repeatedly.

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1 BY MR. MIGLIORI:  
2 Q. And in doing that, was that  
3 something that was true in 1995 when you first  
4 began with the DEA in the Dallas field office?  
5 MS. MAINIGI: Objection.  
6 THE WITNESS: Yes, sir.  
7 BY MR. MIGLIORI:  
8 Q. "Past communications with DEA,  
9 whether implicit or explicit, that could be  
10 construed as approval of a particular system  
11 for reporting suspicious orders should no  
12 longer be taken to mean that the DEA approves a  
13 specific system."  
14 Do you remember delivering that  
15 message in your own experience during the  
16 distributor initiative meetings?  
17 MS. MAINIGI: Objection.  
18 THE WITNESS: Yes, sir.  
19 BY MR. MIGLIORI:  
20 Q. Would that have applied to the  
21 Excessive Purchase Reports, Exhibit 26, that  
22 counsel for Cardinal showed you last week?  
23 MS. MAINIGI: Objection.  
24 THE WITNESS: Yes, sir.  
25 BY MR. MIGLIORI:

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1 Q. If the industry or registrant  
2 standard was to ship a suspicious order without  
3 performing due diligence, would that standard  
4 have been compliant with federal law, in your  
5 experience and your understanding?  
6 MS. MAINIGI: Objection.  
7 THE WITNESS: No, sir.  
8 BY MR. MIGLIORI:  
9 Q. Would it have been compliant to  
10 report suspicious orders after sale on a  
11 monthly basis?  
12 MS. MAINIGI: Objection.  
13 THE WITNESS: No, sir.  
14 BY MR. MIGLIORI:  
15 Q. Mr. Rannazzisi says: "The  
16 registration also requires that the registrant  
17 inform the local DEA division office of  
18 suspicious orders when discovered by the  
19 registrant."  
20 Is that a message that you delivered  
21 in your distributor initiative briefings?  
22 MS. MAINIGI: Objection.  
23 THE WITNESS: Yes, sir.  
24 BY MR. MIGLIORI:  
25 Q. Was that true in 1995, in your

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1 experience, when you got to the DEA?  
2 MS. MAINIGI: Objection.  
3 THE WITNESS: Yes, sir.  
4 BY MR. MIGLIORI:  
5 Q. That is reporting suspicious orders  
6 when discovered by the registrant, is actually  
7 part of the language of the Controlled  
8 Substances Act, correct, in your -- to your  
9 understanding?  
10 MS. MAINIGI: Objection.  
11 THE WITNESS: Yes, sir.  
12 BY MR. MIGLIORI:  
13 Q. So that goes back to the enactment,  
14 in your understanding, of the Controlled  
15 Substances Act and did not start in 2005 when  
16 you did these briefings, correct?  
17 MS. MAINIGI: Objection.  
18 THE WITNESS: Yes, sir.  
19 BY MR. MIGLIORI:  
20 Q. Filling a month --  
21 MS. MAINIGI: Can I ask a question  
22 of the government: Is this all of fair game  
23 for questioning so we and ask similar  
24 questions?  
25 MR. BENNETT: When it's about his

<p style="text-align: right;">Page 349</p> <p>1 personal knowledge on the suspicious orders and</p> <p>2 ARCOS data, practices and procedures, which is</p> <p>3 No. 3.</p> <p>4 MS. MAINIGI: Back to 1970?</p> <p>5 MR. BENNETT: Huh?</p> <p>6 MS. MAINIGI: Back to 1970, James?</p> <p>7 MR. MIGLIORI: It's based on his --</p> <p>8 MR. BENNETT: If he has -- if he has</p> <p>9 any personal knowledge, yes.</p> <p>10 MS. MAINIGI: I see. You think he</p> <p>11 has personal knowledge back then?</p> <p>12 MR. MIGLIORI: Oh, you can save the</p> <p>13 argument.</p> <p>14 MR. BENNETT: I don't have a</p> <p>15 position on that.</p> <p>16 MR. MIGLIORI: Save the argument.</p> <p>17 That's my time you're using for that.</p> <p>18 MS. MAINIGI: I'll give you a</p> <p>19 minute.</p> <p>20 MR. MIGLIORI: Thank you. You're</p> <p>21 sweet.</p> <p>22 BY MR. MIGLIORI:</p> <p>23 Q. "Registrants are reminded that their</p> <p>24 responsibility does not end merely with the</p> <p>25 filling of a suspicious orders report."</p>	<p style="text-align: right;">Page 351</p> <p>1 Q. And did that independent analysis of</p> <p>2 suspicious orders requirement exist in '95, in</p> <p>3 your experience, when you got to DEA?</p> <p>4 MS. MAINIGI: Objection.</p> <p>5 THE WITNESS: The requirement of</p> <p>6 this statute existed.</p> <p>7 BY MR. MIGLIORI:</p> <p>8 Q. So the -- it existed in 1995 when</p> <p>9 you got to the DEA, in your experience,</p> <p>10 correct?</p> <p>11 MS. MAINIGI: Objection.</p> <p>12 THE WITNESS: Yes, sir.</p> <p>13 BY MR. MIGLIORI:</p> <p>14 Q. All right. Mr. Rannazzisi then goes</p> <p>15 into the concepts of -- well, orders of unusual</p> <p>16 size, orders deviating substantially from a</p> <p>17 normal pattern, and orders of unusual</p> <p>18 frequency.</p> <p>19 Those are also in the statute,</p> <p>20 correct?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: Yes, sir.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. If orders deviate in size, are they,</p> <p>25 on the face of the statute, potentially</p>
<p style="text-align: right;">Page 350</p> <p>1 Was that a message that you</p> <p>2 delivered in your distributor briefings?</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 THE WITNESS: Yes, sir.</p> <p>5 BY MR. MIGLIORI:</p> <p>6 Q. Was that true in 1995 when you got</p> <p>7 to the DEA?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 THE WITNESS: Yes, sir.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. Mr. Rannazzisi says: Registrants</p> <p>12 must conduct an independent analysis of</p> <p>13 suspicious orders prior to completing a sale to</p> <p>14 determine whether the controlled substances are</p> <p>15 likely to be diverted from legitimate channels.</p> <p>16 Reporting an order as suspicious will not</p> <p>17 absolve the registrant of responsibility if the</p> <p>18 registrant knew or should have known that the</p> <p>19 controlled substances were being diverted."</p> <p>20 Was that a message that you</p> <p>21 delivered in your distributor initiative</p> <p>22 briefings?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 THE WITNESS: Yes, sir.</p> <p>25 BY MR. MIGLIORI:</p>	<p style="text-align: right;">Page 352</p> <p>1 suspicious orders?</p> <p>2 MS. MAINIGI: Objection.</p> <p>3 THE WITNESS: Yes, sir.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. "These criteria are disjunctive and</p> <p>6 are not all-inclusive."</p> <p>7 First of all, is that a message that</p> <p>8 you delivered in the distributor -- distributor</p> <p>9 initiative briefings?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 THE WITNESS: Yes, sir.</p> <p>12 BY MR. MIGLIORI:</p> <p>13 Q. And what does that mean, that</p> <p>14 they're disjunctive?</p> <p>15 A. It isn't limited to just this. It</p> <p>16 isn't -- these are the primary things to start</p> <p>17 looking at. Think. Why?</p> <p>18 Q. So an order may be suspicious if it</p> <p>19 only deviates substantially from a normal</p> <p>20 pattern, in your understanding of the</p> <p>21 obligations under the Controlled Substances</p> <p>22 Act, correct?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 THE WITNESS: Yes, sir.</p> <p>25 BY MR. MIGLIORI:</p>

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1 Q. It doesn't require that it also be  
2 of unusual frequency or unusual size; any one  
3 or any three or all three could -- could exist  
4 for it to be potentially a suspicious order,  
5 correct?  
6 MS. MAINIGI: Objection.  
7 THE WITNESS: Correct.  
8 BY MR. MIGLIORI:  
9 Q. The language says "that suspicious  
10 orders include orders of unusual size."  
11 Is an order of unusual size, on its  
12 face, suspicious?  
13 MS. MAINIGI: Objection.  
14 THE WITNESS: It could certainly be.  
15 BY MR. MIGLIORI:  
16 Q. And to determine whether it's  
17 suspicious, what is required, in your  
18 understanding?  
19 MS. MAINIGI: Objection.  
20 THE WITNESS: Legitimate medical  
21 necessity. Why is there a certain particular  
22 reason for a substantial increase in size?  
23 BY MR. MIGLIORI:  
24 Q. Who determines that?  
25 MS. MAINIGI: Objection.

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1 THE WITNESS: It'd have to be the  
2 registrant who has received the order.  
3 BY MR. MIGLIORI:  
4 Q. Is that a message you delivered in  
5 the distributor briefings?  
6 MS. MAINIGI: Object to form.  
7 James, I -- I hope that -- well,  
8 I'll save it.  
9 THE WITNESS: Yes, sir.  
10 BY MR. MIGLIORI:  
11 Q. And was that true in 1995 when you  
12 got to DEA?  
13 MS. MAINIGI: Objection.  
14 THE WITNESS: Yes, sir.  
15 BY MR. MIGLIORI:  
16 Q. On the second page of his letter,  
17 Mr. Rannazzisi writes: "When reporting an  
18 order as suspicious, registrants must be clear  
19 in their communications with DEA that the"  
20 registrant -- "registrant is actually  
21 characterizing an order as suspicious. Daily,  
22 weekly or monthly reports submitted by a  
23 registrant indicating excessive purchases do  
24 not comply with the requirement to report  
25 suspicious orders even if the registrant calls

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1 such reports suspicious order reports."  
2 Is that consistent with the message  
3 that you delivered in the distributor  
4 initiative briefings?  
5 MS. MAINIGI: Objection.  
6 BY MR. MIGLIORI:  
7 Q. What's your answer?  
8 A. Yes, sir.  
9 Q. And was that true in 1995 when you  
10 got to the DEA?  
11 MS. MAINIGI: Objection.  
12 THE WITNESS: The statute this the  
13 requirement, yes.  
14 MS. MAINIGI: Objection.  
15 BY MR. MIGLIORI:  
16 Q. So Exhibit 26, this excessive  
17 purchase report or this ingredient limit report  
18 that counsel showed you last week, as you  
19 understand it, would not be a suspicious order  
20 report even if it were labeled as such, based  
21 on your understanding, correct?  
22 MS. MAINIGI: Objection.  
23 THE WITNESS: Correct.  
24 BY MR. MIGLIORI:  
25 Q. Did you deliver this message to the

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1 HDA or the HDMA as well?  
2 MS. MAINIGI: Objection.  
3 BY MR. MIGLIORI:  
4 Q. And by "you" I mean in the  
5 distributor initiative briefings.  
6 Did you ever speak to the HDMA?  
7 A. I don't recall specifically. I  
8 probably did. We reached out to many  
9 organizations every chance we had to get this  
10 message out.  
11 MR. MIGLIORI: Let me show you  
12 Exhibit 32.  
13 (Deposition Exhibit 32 was marked  
14 for identification.)  
15 BY MR. MIGLIORI:  
16 Q. Exhibit 32 is a document produced  
17 I'll show you the Bates number: HSI-MDL  
18 00622468. I'll present to you that it's a  
19 Henry Schein document produced in this  
20 litigation.  
21 And what I have highlighted on the  
22 screen -- well, the -- the title of it is  
23 "Draft Summary of the HDMA DEA meeting,"  
24 October 16th and 17th, 2007, "Not For External  
25 Distribution.

<p style="text-align: right;">Page 357</p> <p>1 And then under the subparagraph</p> <p>2 "Suspicious Orders," your name appears.</p> <p>3 Why don't you take a look at it, and</p> <p>4 then I'll ask you about it.</p> <p>5 Does reviewing this document refresh</p> <p>6 your recollection at all as to whether or not</p> <p>7 you may have been present at a presentation to</p> <p>8 the HDMA?</p> <p>9 A. It does.</p> <p>10 Q. This document says, under</p> <p>11 "Suspicious Orders": "Kyle Wright joined the</p> <p>12 meeting and provided DEA's presentation on</p> <p>13 suspicious orders. Mr. Wright highlighted</p> <p>14 DEA's position that whole distributors should</p> <p>15 conduct a more aggressive form of customer due</p> <p>16 diligence in addition to reporting."</p> <p>17 Do you recall giving that message?</p> <p>18 MS. MAINIGI: Objection.</p> <p>19 THE WITNESS: Yes, sir.</p> <p>20 BY MR. MIGLIORI:</p> <p>21 Q. And it says: "DEA also wants</p> <p>22 distributors to assess orders and stop them</p> <p>23 before they are filled if there" -- if there's</p> <p>24 a reason to be suspicious and expects wholesale</p> <p>25 distributors to thoroughly evaluate orders, the</p>	<p style="text-align: right;">Page 359</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. And why was it important to</p> <p>3 encourage distributor employees going to the</p> <p>4 dispensing sites to actually look at the</p> <p>5 physical locations?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 THE WITNESS: It would help them</p> <p>8 resolve the business model of that customer.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. Help me understand how that relates</p> <p>11 to obligations under Controlled Substances Act,</p> <p>12 if at all.</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 THE WITNESS: If a customer is in a</p> <p>15 sparsely populated area and is ordering,</p> <p>16 conduct business the same as a</p> <p>17 well-established, suburban area, what's the</p> <p>18 draw? Why?</p> <p>19 If the -- if the potential customer</p> <p>20 is in a impoverished or blighted area of town</p> <p>21 and is doing business commensurate with a</p> <p>22 well-established other, how can that be?</p> <p>23 These are tails, again, that is</p> <p>24 drawing it.</p> <p>25 BY MR. MIGLIORI:</p>
<p style="text-align: right;">Page 358</p> <p>1 dispensers themselves, and the dispensers'</p> <p>2 customers."</p> <p>3 Was that the message that you were</p> <p>4 delivering at the HDMA conference with the DEA</p> <p>5 in October of 2007?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 THE WITNESS: Yes, sir.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. And was that consistent with the</p> <p>10 messages that you delivered in the distributor</p> <p>11 initiative briefings?</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 THE WITNESS: Yes, sir.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. Kyle went so far as to discuss</p> <p>16 having a distributor's employee take a look at</p> <p>17 the dispensing site's physical location and</p> <p>18 watch for suspicious activity. Kyle also noted</p> <p>19 that the DEA wants to expand the drug subject</p> <p>20 to ARCOS reporting to include all controlled</p> <p>21 substances."</p> <p>22 Do you recall delivering that</p> <p>23 message to the HDMA?</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 THE WITNESS: Yes, sir.</p>	<p style="text-align: right;">Page 360</p> <p>1 Q. Do you recall how that message was</p> <p>2 received at the HDMA conference?</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 Foundation.</p> <p>5 THE WITNESS: I think they</p> <p>6 understood that -- what we were trying to</p> <p>7 convey to them.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. Were you -- do you recall being</p> <p>10 asked about DEA's role with respect to this</p> <p>11 higher level of due diligence?</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. What do you recall?</p> <p>16 A. We were not trying to lead or get</p> <p>17 industry involved in enforcement. There were</p> <p>18 limits to their capabilities. We understood</p> <p>19 that. We weren't trying to drive them in that</p> <p>20 direction.</p> <p>21 But on the basis of understanding</p> <p>22 who their customer was, there were certain</p> <p>23 obligations that they could do and perform.</p> <p>24 Q. Did that include on-site</p> <p>25 inspections?</p>

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1 MS. MAINIGI: Objection to form.  
2 THE WITNESS: It wasn't a compulsory  
3 requirement. It was a suggested requirement to  
4 help resolve the legitimacy of the orders in  
5 the business.  
6 BY MR. MIGLIORI:  
7 Q. The minutes go on to say: "When  
8 asked, if these customers weren't DEA  
9 registrants, what steps did the DEA take to  
10 evaluate them before registration, Kyle made it  
11 clear that the DEA didn't have the resources to  
12 inspect or otherwise follow up on all  
13 registrants. A copy of Kyle's presentation is  
14 attached. Kyle also offered to act as an  
15 information conduit in the event that any  
16 distributor terminated a pharmacy or clinic  
17 customer based on suspicious orders."  
18 Do you recall having that  
19 interaction about DEA resources?  
20 A. Yes, sir.  
21 MS. MAINIGI: Objection.  
22 BY MR. MIGLIORI:  
23 Q. And did D -- DEA, in your  
24 experience, have the resources to do the  
25 policing of all individual orders that may be

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1 suspicious?  
2 MS. MAINIGI: Objection.  
3 THE WITNESS: That would be  
4 relatively impossible for us to do.  
5 BY MR. MIGLIORI:  
6 Q. And under the CSA, in your -- to  
7 your understanding, who had the sole  
8 responsibility to do that?  
9 MS. MAINIGI: Objection.  
10 THE WITNESS: The industry, the  
11 registrant.  
12 MR. MIGLIORI: Let me show you  
13 Exhibit 33.  
14 MR. EPPICH: Don, before we move to  
15 Exhibit 33, what's the Bates on Exhibit 32?  
16 MR. MIGLIORI: On 32? HSI-MDL  
17 00622468.  
18 Exhibit 33.  
19 (Deposition Exhibit 33 was marked  
20 for identification.)  
21 BY MR. MIGLIORI:  
22 Q. Does this appear to be the  
23 presentation that was made at the HDMA  
24 conference?  
25 A. Yes, sir.

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1 Q. And does it appear to be, as you  
2 flip through it, the same as we discussed in  
3 Exhibit 10, the AmerisourceBergen?  
4 A. It contains the -- most, if not all,  
5 the material.  
6 Q. It has the same section on  
7 suspicious orders that we talked about earlier,  
8 correct?  
9 This is a page that ends with Bates  
10 No. 1 -- ending in 8158. You can look on the  
11 screen too.  
12 We discussed this in the  
13 AmerisourceBergen presentation, correct?  
14 MS. MAINIGI: Objection.  
15 THE WITNESS: Correct, sir.  
16 BY MR. MIGLIORI:  
17 Q. My -- my question is simply it  
18 appears to be the same one even with the  
19 examples of the pharmacies and the summary  
20 on -- on the last page?  
21 A. Yes, sir.  
22 MS. MAINIGI: Objection.  
23 BY MR. MIGLIORI:  
24 Q. And again, I'm not sure if I asked  
25 you this, but relative to the summary of this

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1 presentation, these points, these principals,  
2 existed in 1995 when you got to the DEA,  
3 correct?  
4 MS. MAINIGI: Objection.  
5 THE WITNESS: Yes, sir.  
6 BY MR. MIGLIORI:  
7 Q. I do want to bring your attention --  
8 attached to it seems to be a PowerPoint  
9 presentation with notes underneath them, like  
10 speaking notes. We haven't seen anything like  
11 this yet.  
12 Are you familiar with these speaking  
13 notes?  
14 Would they have been notes that you  
15 put together?  
16 MS. McCLURE: Object to form.  
17 Compound.  
18 BY MR. MIGLIORI:  
19 Q. Just so we can illustrate what I'm  
20 talking about, if you turn to Page 16 of the  
21 PowerPoint presentation, it seems to be a  
22 duplicate of the larger presentation in front  
23 of it, but underneath there are notes  
24 underneath the PowerPoint slides. I'm on Page  
25 16, "Suspicious Orders."



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1 MS. MAINIGI: Objection.  
 2 MS. McClURE: Don, for the record,  
 3 who applied the highlighting that we now see on  
 4 this?  
 5 MR. MIGLIORI: I did.  
 6 MS. McClURE: It's not on the  
 7 original?  
 8 MR. MIGLIORI: That's correct.  
 9 MS. McClURE: Thank you.  
 10 MR. MIGLIORI: But I did not do the  
 11 all caps.  
 12 THE WITNESS: Yes, sir.  
 13 BY MR. MIGLIORI:  
 14 Q. Okay. So do you recall working off  
 15 of notes like that when you gave these  
 16 briefings?  
 17 A. For recall.  
 18 MS. MAINIGI: Objection.  
 19 BY MR. MIGLIORI:  
 20 Q. Go ahead. Repeat your answer.  
 21 A. For recall.  
 22 Q. And so under this particular slide  
 23 on Page 16 of the suspicious orders where it  
 24 talks about reporting a suspicious order, "The  
 25 DEA does not relieve the distributor of the

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1 responsibility to maintain effective controls  
 2 against diversion," underneath it says, in all  
 3 caps, "VERY" and then in lower case "Important  
 4 Concept."  
 5 Is that your note?  
 6 MS. MAINIGI: Objection.  
 7 THE WITNESS: I don't recall.  
 8 BY MR. MIGLIORI:  
 9 Q. Is it a note that you would have  
 10 taken an instruction from for recall as you  
 11 were giving the presentation?  
 12 MS. MAINIGI: Objection.  
 13 THE WITNESS: Yes, sir.  
 14 BY MR. MIGLIORI:  
 15 Q. Is it a concept that you would have  
 16 emphasized as a very important concept?  
 17 MS. MAINIGI: Objection.  
 18 THE WITNESS: Yes, sir.  
 19 BY MR. MIGLIORI:  
 20 Q. If you turn to the next page -- it's  
 21 the last one I'll ask you about -- there's a  
 22 note underneath the side on "Suspicious Orders"  
 23 that discuss the requirement to design and  
 24 operate a system to identify suspicious orders.  
 25 Could you read the note under the

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1 slide on the -- that?  
 2 A. "Suspicious orders versus excessive  
 3 purchases. Orders are before sales."  
 4 Q. Is that a message that you were  
 5 delivering in your distributor briefings?  
 6 MS. MAINIGI: Objection.  
 7 THE WITNESS: Yes, sir.  
 8 BY MR. MIGLIORI:  
 9 Q. And why did you make a note, or was  
 10 there a note there for you to recall making  
 11 that point?  
 12 MS. MAINIGI: Objection.  
 13 Foundation. He's already said he doesn't even  
 14 recall whether he made these notes.  
 15 MR. MIGLIORI: All right. That's  
 16 about ten word. But you can get it down to  
 17 four, and we'll be in good shape.  
 18 MS. MAINIGI: I don't think I need  
 19 to. Because you're trying to put words in his  
 20 mouth for this entire bit of testimony.  
 21 MR. MIGLIORI: Who asked for  
 22 leading?  
 23 MS. MAINIGI: I --  
 24 BY MR. MIGLIORI:  
 25 Q. Can you answer that question, or do

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1 you want me to repeat it?  
 2 A. Order --  
 3 Q. I'm happy to repeat it.  
 4 A. Order before. Was the sale is  
 5 completed. It's a sale. Order is I'm  
 6 requesting it. The distinction had to be made  
 7 clear.  
 8 Q. Is there a distinction being made  
 9 between suspicious order reporting and  
 10 excessive purchase reporting?  
 11 MS. MAINIGI: Objection. No  
 12 foundation this witness wrote this note.  
 13 THE WITNESS: As previously stated,  
 14 the excessive purchase -- it was already done.  
 15 It was -- the sale was completed. Suspicious  
 16 order is before the order is completed.  
 17 BY MR. MIGLIORI:  
 18 Q. Was this excessive purchase  
 19 reporting compliant, to your understanding,  
 20 with the Controlled Substances Act obligations  
 21 for a registrant at the time of this  
 22 presentation in 2007?  
 23 MS. MAINIGI: Objection.  
 24 THE WITNESS: No, sir. It was not.  
 25 BY MR. MIGLIORI:



<p style="text-align: right;">Page 369</p> <p>1 Q. Was excessive purchase reporting, to</p> <p>2 your understanding of the DEA obligations,</p> <p>3 compliant with the -- with the -- strike that.</p> <p>4 Was excessive purchase reporting</p> <p>5 compliant with the obligations under the</p> <p>6 Controlled Substances Act, to your</p> <p>7 understanding, when you got to the DEA in 1995?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 THE WITNESS: No, sir.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. And when you gave your briefings in</p> <p>12 2007, did you make a point to distinguish</p> <p>13 orders from sales relative to the obligations</p> <p>14 to report suspicious orders?</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 THE WITNESS: Yes, sir.</p> <p>17 BY MR. MIGLIORI:</p> <p>18 Q. The issue came up when counsel was</p> <p>19 talking to you last week about documentation of</p> <p>20 due diligence.</p> <p>21 Do you recall that?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Now, we've been talking a little bit</p> <p>24 about the HDMA.</p> <p>25 Do you know who the members of the</p>	<p style="text-align: right;">Page 371</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. Were retail chain pharmacies part of</p> <p>3 the HDMA, to your knowledge?</p> <p>4 MS. MAINIGI: Objection.</p> <p>5 THE WITNESS: I don't recall.</p> <p>6 BY MR. MIGLIORI:</p> <p>7 Q. Okay. Were manufacturers of</p> <p>8 controlled substances members of the HDMA, to</p> <p>9 your knowledge?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 THE WITNESS: I don't recall. I</p> <p>12 don't believe so.</p> <p>13 BY MR. MIGLIORI:</p> <p>14 Q. On the covering page of this</p> <p>15 document, in talking about -- oh, I'll --</p> <p>16 I'll -- let me give the full title. It's</p> <p>17 called "The Industry Compliance Guidelines:</p> <p>18 Reporting Suspicious Orders and Preventing</p> <p>19 Diversion of Controlled Substances."</p> <p>20 Were you aware that the HDMA, in</p> <p>21 November of 2008, published a guidance for</p> <p>22 distributors relative to suspicious orders and</p> <p>23 preventing diversion?</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 THE WITNESS: No, sir.</p>
<p style="text-align: right;">Page 370</p> <p>1 HDMA are?</p> <p>2 MS. MAINIGI: Objection.</p> <p>3 THE WITNESS: (No response.)</p> <p>4 MR. MIGLIORI: This is Exhibit No.</p> <p>5 34.</p> <p>6 (Deposition Exhibit 34 was marked</p> <p>7 for identification.)</p> <p>8 MS. McCLURE: Can you read the Bates</p> <p>9 number into the record for the --</p> <p>10 MR. MIGLIORI: Happy to.</p> <p>11 MS. MAINIGI: -- attorneys and</p> <p>12 people on the phone.</p> <p>13 MR. MIGLIORI: This is Cardinal</p> <p>14 Health document CAH_MDL 280400988458. It's</p> <p>15 called the "Industry Compliance Guidelines,</p> <p>16 Healthcare Distribution Management Association,</p> <p>17 HDMA."</p> <p>18 THE WITNESS: It was an association</p> <p>19 of distributors, to my understanding, mostly,</p> <p>20 in which they would get together, either</p> <p>21 independently on their own and with the</p> <p>22 department of -- or drug enforcement to discuss</p> <p>23 matters, litigation, proposed rule making, a</p> <p>24 variety of things that would affect their</p> <p>25 business or had an interest in their business.</p>	<p style="text-align: right;">Page 372</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. I'm going to read from this cover</p> <p>3 introduction. It says: "At the center of a</p> <p>4 sophisticated supply chain, distributors are</p> <p>5 uniquely situated to perform the due diligence</p> <p>6 in order to help support the security of the</p> <p>7 controlled substances they deliver to their</p> <p>8 customers."</p> <p>9 Do you agree with that statement?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 BY MR. MIGLIORI:</p> <p>12 Q. That distributors are uniquely</p> <p>13 situated to perform the due diligence?</p> <p>14 MS. MAINIGI: Objection.</p> <p>15 THE WITNESS: Yes, sir.</p> <p>16 BY MR. MIGLIORI:</p> <p>17 Q. The HDMA wrote: "Due diligence can</p> <p>18 provide a greater level of assurance that those</p> <p>19 who purchase controlled substance from</p> <p>20 distributors intend to dispense them for</p> <p>21 legally acceptable purposes."</p> <p>22 Do you agree with that statement of</p> <p>23 the HDMA?</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 THE WITNESS: Yes, sir.</p>

<p style="text-align: right;">Page 373</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. And it says: "Such due diligence</p> <p>3 can reduce the possibility that controlled</p> <p>4 substances within the supply chain will reach</p> <p>5 locations they are not intended to reach."</p> <p>6 Do you agree with that statement of</p> <p>7 the HDMA?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 THE WITNESS: Yes, sir.</p> <p>10 BY MR. MIGLIORI:</p> <p>11 Q. I want to have you turn to Page 415,</p> <p>12 if you look at the top-right corner. There's a</p> <p>13 discussion in the guidance about the "Know Your</p> <p>14 Customer Due Diligence."</p> <p>15 And it says: "Before opening an</p> <p>16 account for a new customer, the distributor</p> <p>17 should obtain background information on the</p> <p>18 customer and the customer's business, review</p> <p>19 that information carefully and, where</p> <p>20 appropriate, verify the information and</p> <p>21 independently investigate the potential</p> <p>22 customer."</p> <p>23 Do you agree with that statement of</p> <p>24 the Healthcare -- of the HDMA?</p> <p>25 MS. MAINIGI: Objection.</p>	<p style="text-align: right;">Page 375</p> <p>1 an Order of Interest Shipment," the HDMA wrote:</p> <p>2 "If an order meets or exceeds a distributor's</p> <p>3 threshold, as defined in the distributor's</p> <p>4 monitoring system, or as otherwise</p> <p>5 characterized by the distributor as an order of</p> <p>6 interest, the distributor should not ship to</p> <p>7 the customer in fulfillment of that order any</p> <p>8 units of the specific drug code product as to</p> <p>9 which the order met or exceed a threshold or as</p> <p>10 to which the order was otherwise characterized</p> <p>11 as an order of interest."</p> <p>12 Do you agree with that guidance?</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 BY MR. MIGLIORI:</p> <p>15 Q. Was that consistent with your then</p> <p>16 understanding of the requirements under the</p> <p>17 CSA?</p> <p>18 MS. MAINIGI: Objection.</p> <p>19 THE WITNESS: An order of interest</p> <p>20 would be a suspicious order. Anything that</p> <p>21 drew attention, identified anomalies should be</p> <p>22 looked at.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. Once identified, what were the</p> <p>25 obligations of that registrant, in your</p>
<p style="text-align: right;">Page 374</p> <p>1 THE WITNESS: I do, sir.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. Was that a good due diligence</p> <p>4 practice in 2008?</p> <p>5 MR. BENNETT: Objection.</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 THE WITNESS: It's a good start.</p> <p>8 BY MR. MIGLIORI:</p> <p>9 Q. And --</p> <p>10 MS. McCLURE: Don, for the purposes</p> <p>11 of the record, I'm just going to confirm that</p> <p>12 the highlighting that you're displaying in this</p> <p>13 document is again your own and not contained in</p> <p>14 the original, correct?</p> <p>15 MR. MIGLIORI: Correct. That's true</p> <p>16 for every document that you'll see from me</p> <p>17 today.</p> <p>18 BY MR. MIGLIORI:</p> <p>19 Q. Due diligence for a new customer was</p> <p>20 also required in 1995 when you got to the DEA,</p> <p>21 correct?</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 THE WITNESS: Yes, sir.</p> <p>24 BY MR. MIGLIORI:</p> <p>25 Q. On Page 9 of 15, under "Suspend/Stop</p>	<p style="text-align: right;">Page 376</p> <p>1 experience, or to your understanding?</p> <p>2 MS. MAINIGI: Objection.</p> <p>3 THE WITNESS: If you deem it</p> <p>4 suspicious, you report.</p> <p>5 BY MR. MIGLIORI:</p> <p>6 Q. When do you report it?</p> <p>7 A. When discovered.</p> <p>8 Q. If you turn to Page 11 of 15,</p> <p>9 there's a reference here by the HDMA about</p> <p>10 documentation. In 2008, the HDMA guidance on</p> <p>11 document says: "All investigations should be</p> <p>12 fully documented, and all records of the</p> <p>13 investigation should be retained in an</p> <p>14 appropriate location with the firm, such as</p> <p>15 with other records relating to the particular</p> <p>16 customer."</p> <p>17 Do you agree with that statement of</p> <p>18 the HDMA in 2008?</p> <p>19 MS. MAINIGI: Objection.</p> <p>20 THE WITNESS: I do, sir.</p> <p>21 BY MR. MIGLIORI:</p> <p>22 Q. Is that something that you told</p> <p>23 registrants when you briefed them in your</p> <p>24 distributor briefings?</p> <p>25 MS. MAINIGI: Objection.</p>

<p style="text-align: right;">Page 377</p> <p>1 THE WITNESS: Most certainly was.</p> <p>2 BY MR. MIGLIORI:</p> <p>3 Q. And did you believe that to be the</p> <p>4 appropriate procedure or policy in 1995 when</p> <p>5 you got to the DEA and were in the field in</p> <p>6 Dallas?</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 THE WITNESS: Yes, sir.</p> <p>9 BY MR. MIGLIORI:</p> <p>10 Q. The HDMA wrote: "At a minimum,</p> <p>11 documentation should include the names, titles</p> <p>12 and other relevant identification of the</p> <p>13 representative of the customer contacted,</p> <p>14 example given: pharmacist in charge, dates of</p> <p>15 contact, full description of questions asked</p> <p>16 and requests for information made by the</p> <p>17 distributor and of information provided by the</p> <p>18 customer."</p> <p>19 Do you agree with that guidance from</p> <p>20 the HDMA to its distributor members in 2008?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: I certainly do.</p> <p>23 BY MR. MIGLIORI:</p> <p>24 Q. And would that have been what you</p> <p>25 would expect in 1995 of registrant</p>	<p style="text-align: right;">Page 379</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. It goes on to say: "The</p> <p>3 documentation should include a clear statement</p> <p>4 of the final conclusion of the investigation,</p> <p>5 including why the order investigated was or was</p> <p>6 not determined to be suspicious."</p> <p>7 Do you agree with that statement of</p> <p>8 the HDMA?</p> <p>9 MS. MAINIGI: Objection.</p> <p>10 THE WITNESS: Yes, sir.</p> <p>11 Q. And would that have been appropriate</p> <p>12 guidance in 1995 when you got to the DEA?</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 THE WITNESS: Yes, sir.</p> <p>15 BY MR. MIGLIORI:</p> <p>16 Q. Finally: "That statement should be</p> <p>17 signed and dated by the reviewer. Copies of</p> <p>18 any written information provided by the</p> <p>19 customer should also be retained as part of the</p> <p>20 documentation of the investigation."</p> <p>21 Was that good guidance by the HDMA</p> <p>22 in 2008?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 MR. BENNETT: Objection.</p> <p>25 THE WITNESS: Yes, sir.</p>
<p style="text-align: right;">Page 378</p> <p>1 distributors?</p> <p>2 MS. MAINIGI: Objection.</p> <p>3 THE WITNESS: Yes, sir.</p> <p>4 BY MR. MIGLIORI:</p> <p>5 Q. In fact, have you ever looked at the</p> <p>6 standard operating procedures of any of the</p> <p>7 registrant distributors in your experience at</p> <p>8 the DEA?</p> <p>9 MR. BENNETT: Objection.</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 MR. BENNETT: I don't want you to</p> <p>12 talk about specific investigations. You can</p> <p>13 talk generally though.</p> <p>14 THE WITNESS: As I'm -- would you</p> <p>15 please repeat the question.</p> <p>16 BY MR. MIGLIORI:</p> <p>17 Q. Sure.</p> <p>18 Are you familiar with any standard</p> <p>19 operating procedures of any of the distributor</p> <p>20 registrants?</p> <p>21 First "yes" or "no."</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 THE WITNESS: No.</p> <p>24 MR. MIGLIORI: Okay. Made that</p> <p>25 quick.</p>	<p style="text-align: right;">Page 380</p> <p>1 BY MR. MIGLIORI:</p> <p>2 Q. And would that have been appropriate</p> <p>3 guidance in 1995 when you got to the DEA?</p> <p>4 MS. MAINIGI: Objection.</p> <p>5 THE WITNESS: Yes, sir.</p> <p>6 BY MR. MIGLIORI:</p> <p>7 Q. Let me just bring you to the Page 14</p> <p>8 of 15 under "Additional Recommendations."</p> <p>9 The HDMA, on page 14 of 15, lists</p> <p>10 under "Additional Recommendations" the third</p> <p>11 bullet point. Well, it says: "It is</p> <p>12 recommended that a distributor include in its</p> <p>13 system provisions for," the third bullet point,</p> <p>14 "periodic review of the distributor system for</p> <p>15 monitoring for suspicious orders, including the</p> <p>16 system design and the thresholds to determine</p> <p>17 whether a revision should be developed. For</p> <p>18 example, if the FDA approves a new controlled</p> <p>19 substance or a new indication for use for an</p> <p>20 existing controlled substance, or if the DEA</p> <p>21 makes new information available regarding a</p> <p>22 drug or concern, provisions to the thresholds</p> <p>23 may be needed."</p> <p>24 Do you agree with the guidance of</p> <p>25 the HDMA in 2008 that periodic review of the</p>

<p style="text-align: right;">Page 381</p> <p>1 Suspicious Order Monitoring System is 2 appropriate? 3 MS. MAINIGI: Objection. 4 THE WITNESS: Yes, sir. 5 BY MR. MIGLIORI: 6 Q. Would that have been appropriate in 7 1995 when you got to the DEA? 8 Would that have been appropriate 9 guidance? 10 MS. McCCLURE: Objection. 11 MS. MAINIGI: Objection. 12 THE WITNESS: Yes, sir. 13 BY MR. MIGLIORI: 14 Q. Why? 15 MS. MAINIGI: Objection. 16 THE WITNESS: The means of criminal 17 activity was always changing; didn't stay 18 constant. Means of -- of trying to obtain 19 these narcotic drugs illicitly was always 20 changing. The drugs themselves, the 21 combinations of those drugs. 22 There's -- can't predict what the 23 drug is today is going to be the same drug of 24 abuse. Opana was a regional drug through the 25 Midwest that stayed consistent for a little</p>	<p style="text-align: right;">Page 383</p> <p>1 on the record. 2 This is the start of Media Unit No. 3 3. 4 The time is 11:54. 5 You may proceed, Counsel. 6 EXAMINATION BY COUNSEL FOR CUYAHOGA COUNTY 7 PLAINTIFFS 8 BY MR. SHKOLNIK: 9 Q. Good morning, Mr. Wright. 10 My name's Hunter Shkolnik. I 11 introduced myself last Thursday when your first 12 day of your deposition began. 13 You and I have never met before that 14 Thursday occasion; am I correct? 15 A. No, sir. Not to the best of my 16 recollection. 17 Q. And let me reintroduce myself and 18 why I'm here. I represent Cuyahoga County as 19 well as -- as -- as various plaintiffs in this 20 litigation. And Cuyahoga County is one of the 21 cases going to trial this coming October in the 22 opioid litigation. 23 You, sir, during your years at DEA, 24 did you ever -- or were you ever assigned to 25 the region that would encompass Ohio, Cuyahoga</p>
<p style="text-align: right;">Page 382</p> <p>1 over a year and quickly died out because it 2 just didn't have the desired effect. 3 Things were going to come up and 4 arise and change. The system had to be adapted 5 to detect these changes. 6 BY MR. MIGLIORI: 7 Q. What was your understanding of whose 8 responsibility it was to periodically review 9 and make those changes? 10 MS. MAINIGI: Objection. 11 THE WITNESS: The registrants'. 12 BY MR. MIGLIORI: 13 Q. Did that responsibility, in your 14 experience, go back to 1995 when you got to the 15 DEA? 16 MS. MAINIGI: Objection. 17 THE WITNESS: Yes, sir. 18 MR. MIGLIORI: Want to take a break? 19 Let's take a break. 20 THE VIDEOGRAPHER: We are going off 21 the record. 22 This is the end of Media Unit No. 2. 23 The time is 11:31. 24 (A short recess was taken.) 25 THE VIDEOGRAPHER: We are going back</p>	<p style="text-align: right;">Page 384</p> <p>1 County, when you were working in the field? 2 MS. MAINIGI: Objection. 3 THE WITNESS: No, sir. 4 BY MR. SHKOLNIK: 5 Q. Did you ever have occasion to work 6 any investigations in Ohio, specifically 7 Cuyahoga County or, for that matter, Summit 8 County, which is adjoining it? 9 MS. MAINIGI: Objection. 10 MR. BENNETT: Objection. Don't 11 speak about specific investigation. 12 But you can answer generally. 13 THE WITNESS: Not to my 14 recollection. 15 BY MR. SHKOLNIK: 16 Q. Now, you -- you've been asked 17 questions on Thursday and again this morning 18 about attending and -- and a present -- and 19 presentations at a pharmaceutical industry 20 conference in Houston September 11th and 12th, 21 2007. 22 Do you actually have recollection of 23 attending that conference with Mr. Mapes and 24 doing any presentations? 25 MS. MAINIGI: Objection.</p>

<p style="text-align: right;">Page 385</p> <p>1 MR. STEPHENS: Objection.</p> <p>2 THE WITNESS: The dates? Repeat</p> <p>3 those --</p> <p>4 BY MR. SHKOLNIK:</p> <p>5 Q. September 11th and 12th of 2007 in</p> <p>6 Houston, Texas?</p> <p>7 MS. McCLURE: Objection. Asked and</p> <p>8 answered.</p> <p>9 MR. SHKOLNIK: Not by me.</p> <p>10 THE WITNESS: Vaguely, yes.</p> <p>11 BY MR. SHKOLNIK:</p> <p>12 Q. And -- and would I be correct in</p> <p>13 stating that that was not just attend by</p> <p>14 distributors, that conference in Houston in</p> <p>15 2007, correct?</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 THE WITNESS: Correct.</p> <p>18 BY MR. SHKOLNIK:</p> <p>19 Q. And that was what we would call a</p> <p>20 pharmaceutical industry conference, meaning you</p> <p>21 would have various levels of the pharmaceutical</p> <p>22 industry, and registrants in particular,</p> <p>23 pharmacy, pharmacy chains, manufacturers and</p> <p>24 distributors that were in attendance, correct?</p> <p>25 MS. MAINIGI: Objection.</p>	<p style="text-align: right;">Page 387</p> <p>1 Q. And also attached to it is a portion</p> <p>2 of a -- of one of the PowerPoints presented at</p> <p>3 that conference. We can go into details in a</p> <p>4 little bit.</p> <p>5 But it is a -- a PowerPoint</p> <p>6 presentation, correct?</p> <p>7 A. It is, sir.</p> <p>8 Q. And that is not -- withdraw that.</p> <p>9 If we could just briefly go through</p> <p>10 35.</p> <p>11 On -- on the first page at the</p> <p>12 bottom it says "1 of 24." We -- we see that</p> <p>13 there are a list of attendees.</p> <p>14 MR. SHKOLNIK: How I do zoom this</p> <p>15 out. Here we go.</p> <p>16 BY MR. SHKOLNIK:</p> <p>17 Q. Okay. We have a list of attendees</p> <p>18 that were here. I want to just go through this</p> <p>19 and see if this helps refresh your recollect as</p> <p>20 to who some of the attendees are.</p> <p>21 We have here Actavis --</p> <p>22 MS. MAINIGI: Is that a question, or</p> <p>23 what -- what is it?</p> <p>24 MR. SHKOLNIK: It's all -- it's all</p> <p>25 of the above. I hope you like it.</p>
<p style="text-align: right;">Page 386</p> <p>1 THE WITNESS: Correct.</p> <p>2 MR. SHKOLNIK: And I'd like to hand</p> <p>3 you what I've marked as Exhibit No. -- I</p> <p>4 believe it's 35.</p> <p>5 I can give you this.</p> <p>6 (Deposition Exhibit 35 was marked</p> <p>7 for identification.)</p> <p>8 MR. SHKOLNIK: Unlike my colleagues,</p> <p>9 I only have limited numbers of copies. So I</p> <p>10 apologize.</p> <p>11 MS. MAINIGI: Could you read the</p> <p>12 Bates number for the record.</p> <p>13 MR. SHKOLNIK: I will.</p> <p>14 Cardinal Health 019076.</p> <p>15 BY MR. SHKOLNIK:</p> <p>16 Q. And sir, I've just handed you what</p> <p>17 I've marked as Exhibit No. 35. And it appears</p> <p>18 to -- and -- and if -- if I understand it</p> <p>19 correctly, it is a list of attendees at the</p> <p>20 13th pharmaceutical industry conference in</p> <p>21 Houston, Texas, September 11th, 2000 --</p> <p>22 September 12, 2007.</p> <p>23 Do you have that in front of you,</p> <p>24 sir?</p> <p>25 A. I do, sir.</p>	<p style="text-align: right;">Page 388</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 BY MR. SHKOLNIK:</p> <p>3 Q. Actavis was there; am I correct,</p> <p>4 sir?</p> <p>5 MS. MAINIGI: Objection.</p> <p>6 MR. BENNETT: Objection.</p> <p>7 THE WITNESS: Yes, sir.</p> <p>8 BY MR. SHKOLNIK:</p> <p>9 Q. Actavis Mid-Atlantic, LLC, also had</p> <p>10 a -- had a person there; am I correct?</p> <p>11 MS. MAINIGI: Objection.</p> <p>12 MS. McCLURE: Objection.</p> <p>13 MR. BENNETT: Object to the form.</p> <p>14 MR. SHKOLNIK: I don't think --</p> <p>15 MR. BENNETT: Counsel, I just --</p> <p>16 just so the record's clear, are you asking him</p> <p>17 whether the document says that or whether he --</p> <p>18 MR. SHKOLNIK: Okay. I'll --</p> <p>19 MR. BENNETT: -- remembers?</p> <p>20 MR. SHKOLNIK: I'll rephrase it.</p> <p>21 That's a --</p> <p>22 MR. BENNETT: Thank you, sir.</p> <p>23 BY MR. SHKOLNIK:</p> <p>24 Q. According to the document, the --</p> <p>25 the attendee list, it suggests that Actavis and</p>



<p style="text-align: right;">Page 389</p> <p>1 Actavis Mid-Atlantic was in attendance, if you 2 see Page 2. 3 A. Yes, sir. 4 MS. MAINIGI: Objection. 5 BY MR. SHKOLNIK: 6 Q. It -- it also suggests that, whether 7 they were actually physically there or -- and 8 attending, they were registered, also 9 AmerisourceBergen had a group of registered 10 participants at that conference, correct? 11 MS. McCLURE: Objection. 12 THE WITNESS: Yes, sir. 13 BY MR. SHKOLNIK: 14 Q. And if we turn to Page No. 4, we 15 have more AmerisourceBergen as well as 16 AmerisourceBergen Specialty Group represent -- 17 representatives who were registered at that 18 pharmaceutical conference in -- in Houston, 19 correct? 20 MS. McCLURE: Objection. 21 THE WITNESS: Yes, sir. 22 BY MR. SHKOLNIK: 23 Q. And when you go to these type of 24 conferences, is it common to get a list of the 25 attendees so you know who was registered and</p>	<p style="text-align: right;">Page 391</p> <p>1 MR. O'CONNOR: Objection. 2 THE WITNESS: Correct, sir. 3 BY MR. SHKOLNIK: 4 Q. And if we go to the next page, which 5 I'm looking at is Page 10, we -- we -- we also 6 have FedEx Custom Critical and FedEx Freight as 7 a registered attendee at the conference in 8 Houston. 9 Does it say that? 10 A. Yes, sir. 11 Q. Now, FedEx was one of the -- was an 12 entity that actually participated in the 13 distribution process of controlled substances, 14 was it not? 15 MS. MAINIGI: Objection. 16 Foundation. 17 MR. EPPICH: Objection. 18 THE WITNESS: Yes, sir. 19 BY MR. SHKOLNIK: 20 Q. And they were -- they actually had a 21 registration where they could distribute for 22 manufacturers, couldn't they? 23 MS. MAINIGI: Objection. 24 THE WITNESS: Yes, sir. 25 BY MR. SHKOLNIK:</p>
<p style="text-align: right;">Page 390</p> <p>1 who'd be participating? 2 MS. MAINIGI: Objection. 3 THE WITNESS: It was a very common 4 practice. 5 BY MR. SHKOLNIK: 6 Q. And if we go to Page 6, it looks 7 like we have Cardinal Health represented in the 8 house that day as well, correct? 9 MS. MAINIGI: Objection. 10 BY MR. SHKOLNIK: 11 Q. Or at least registered. 12 A. Correct, sir. 13 Q. And if we go to Page 7, we have 14 Cephalon registered and potentially in the 15 house for the presentation by at least three 16 people, correct? 17 MR. O'CONNOR: Objection. 18 THE WITNESS: Correct, sir. 19 BY MR. SHKOLNIK: 20 Q. And if we go to the next page, Page 21 8, we have, again, Cephalon and Cephalon doing 22 business as Anesta Corp., also registered 23 attendee at the Houston pharmaceutical 24 conference where the presentation was made, 25 correct?</p>	<p style="text-align: right;">Page 392</p> <p>1 Q. And then if we go to the next page, 2 we have H.D. Smith as a registrant on Page 11, 3 correct? 4 MS. MAINIGI: Objection. 5 MR. EPPICH: Object. 6 BY MR. SHKOLNIK: 7 Q. When I say "registered," I mean 8 registered attendee at the conference. 9 Correct? 10 A. Yes, sir. 11 MS. MAINIGI: Objection. 12 BY MR. SHKOLNIK: 13 Q. If we go to the next page, we have 14 Henry Schein also registered by a couple of 15 people, both regulatory affairs people, for -- 16 as attendees at the conference, correct? 17 MS. MAINIGI: Objection. 18 THE WITNESS: Yes, sir. 19 BY MR. SHKOLNIK: 20 Q. And if we could go now to Page 15, 21 we have Mallinckrodt Davidian, and we have 22 McKesson as registered attendees at the 23 pharmaceutical conference in Houston, correct. 24 MR. EPPICH: Objection. 25 THE WITNESS: Yes, sir.</p>



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1 BY MR. SHKOLNIK:  
2 Q. If we go to the next page, we  
3 actually have McKesson's Medical Surgical,  
4 Incorporated, as a registered attendee for the  
5 conference, correct?  
6 MR. EPPICH: Objection.  
7 MR. SHKOLNIK: Sorry. Go back to  
8 that. I apologize.  
9 THE WITNESS: Yes, sir.  
10 BY MR. SHKOLNIK:  
11 Q. And if we go to the next page, 17,  
12 we have Mylan Laboratories also as a registered  
13 attendee for the conference, correct?  
14 MR. EPPICH: Objection.  
15 THE WITNESS: Yes, sir.  
16 MR. SHKOLNIK: Going to skip ahead.  
17 BY MR. SHKOLNIK:  
18 Q. If we could go to Page 20, we have  
19 Purdue and Qualitest Pharmaceuticals both as  
20 registered attendees at this conference,  
21 correct?  
22 MR. O'CONNOR: Objection.  
23 MS. MAINIGI: Objection.  
24 MS. McCLURE: Objection.  
25 THE WITNESS: (No response.)

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1 BY MR. SHKOLNIK:  
2 Q. And if we could go to Page 23, we  
3 even have Walgreens here --  
4 MR. STEPHENS: Objection.  
5 BY MR. SHKOLNIK:  
6 Q. -- as a attendee registrant at this  
7 conference, correct?  
8 MR. STEPHENS: Objection.  
9 MR. SHKOLNIK: I knew that was  
10 coming.  
11 BY MR. SHKOLNIK:  
12 Q. Am I correct, sir?  
13 A. Yes, sir.  
14 Q. So would -- would I be -- oh, and I  
15 think I've got one more here. Oh, I do.  
16 If we could just go to the last  
17 page. We've Walgreen Company again. And  
18 actually, they even had their lawyer there  
19 attending the -- as a registrant --  
20 MR. STEPHENS: Same objection.  
21 BY MR. SHKOLNIK:  
22 Q. -- for the conference, Mr. Pinon,  
23 correct?  
24 MR. STEPHENS: Objection.  
25 THE WITNESS: Yes, sir.

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1 BY MR. SHKOLNIK:  
2 Q. And we have Watson Laboratories also  
3 attending as a -- or a registered attendee at  
4 the conference, correct?  
5 MR. O'CONNOR: Objection.  
6 THE WITNESS: Yes, sir.  
7 BY MR. SHKOLNIK:  
8 Q. Now, would it be fair to say that,  
9 when these pharmaceutical companies, chain  
10 pharmacies, manufacturers and distributors were  
11 attending this conference and -- and you and/or  
12 Mr. Mapes presenting there or Mr. Mapes  
13 presenting there, was the goal to try to get  
14 out your information to as many people as you  
15 possibly could at a forum such as this where so  
16 many people were -- or so many registrants were  
17 attending?  
18 MS. MAINIGI: Objection.  
19 THE WITNESS: Absolutely.  
20 BY MR. SHKOLNIK:  
21 Q. I mean, if you want to get the word  
22 out from the DEA perspective, you want to go to  
23 where the registrants are so that you could  
24 really hit as many or get as many to hear the  
25 word that you're -- that you're -- you're --

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1 you're sort of preaching.  
2 You want them to get it, and this  
3 was a good places to do it, correct?  
4 MS. MAINIGI: Objection.  
5 MR. BENNETT: Objection. Form.  
6 THE WITNESS: Yes, sir.  
7 BY MR. SHKOLNIK:  
8 Q. I mean I'm not -- I'm not using the  
9 word "preaching" in a derogatory way.  
10 You were trying to get the word out  
11 to the industry that you had a problem with  
12 respect to sales and distribution of controlled  
13 substances, and these companies had to do  
14 something, and they had to act, correct?  
15 MS. MAINIGI: Objection.  
16 Mr. Shkolnik, if you could -- I  
17 don't know what foundation you have that you  
18 are trying to put all these words in this  
19 witness's mouth.  
20 MR. SHKOLNIK: Please, you know, do  
21 you have an objection to form?  
22 MS. MAINIGI: He's not even said  
23 that --  
24 MR. SHKOLNIK: Do you have an  
25 objection to form? Say it.

<p style="text-align: right;">Page 397</p> <p>1 MS. MAINIGI: I've an objection to 2 form. And I -- 3 MR. SHKOLNIK: Okay. Could we go 4 off the record. We're going to call Special 5 Master Cohen. 6 MS. MAINIGI: I'm fine with that. 7 MR SHKOLNIK. On. That -- that -- 8 that's good. 9 THE VIDEOGRAPHER: We -- we are 10 going off the record. The time is 12:06. 11 (A short recess was taken.) 12 (Whereupon, Special Master Cohen was 13 called.) 14 (Discussion off the record.) 15 SPECIAL MASTER COHEN: Who right now 16 is doing the questioning, and who is stating 17 objections? 18 MS. MAINIGI: Hunter is doing the 19 questioning. And I'm stating the objection. 20 And the problem that we are having 21 -- and I'm happy to read the question -- is 22 this witness has indicated he actually has no 23 idea whether he was at this meeting, number 24 one. Number two, he's actually previously 25 testified under oath that he was not at the</p>	<p style="text-align: right;">Page 399</p> <p>1 If we could go back to that. 2 MS. MAINIGI: I -- I'm looking for 3 it. I -- I think we keep talking, so it goes 4 further and further back. 5 MR. SHKOLNIK: Maybe the court 6 reporter -- could you pull that up? 7 (Discussion held off the record.) 8 (The record was read as requested.) 9 SPECIAL MASTER COHEN: All right. 10 So look, this is how this needs to go forward. 11 I said it before that an objection needs to be 12 one word with an explanation, and the 13 explanation can be about ten words or less. So 14 an appropriate objection would be, "Objection. 15 Form." 16 When it's time to decide whether 17 that colloquy is allowed in as evidence, and if 18 -- if it ever comes up that counsel designates 19 that colloquy, then the court will look at the 20 objection and may well decide that the form was 21 shitty and that the question was inappropriate 22 and that the response isn't allowed in. But 23 the only thing that needs to happen is that 24 somebody needs to register an objection. 25 I always think that, when counsel is</p>
<p style="text-align: right;">Page 398</p> <p>1 meeting. 2 I think he's trying to be as helpful 3 as he can to the plaintiffs' counsel, which we 4 all understood why. 5 And so, despite all of that, Mr. 6 Shkolnik is building into his questioning all 7 of these assumptions. He's not asking a 8 straight question. He's basically taking a 9 page and then asking a question at the end of 10 his self-serving statements. 11 MR. SHKOLNIK: I'm cross-examining 12 the witness. I think we're allowed to do that. 13 MS. MAINIGI: And so I think -- so I 14 put in an objection. It has been object to 15 form the entire morning when Mr. Migliori was 16 questioning. 17 And Mr. Shkolnik has just now 18 started questioning and is loading up all of 19 his questions with just is garbage. 20 MR. SHKOLNIK: David, could we just 21 read the question and then -- 22 SPECIAL MASTER COHEN: Yeah. Go 23 ahead. 24 MR. SHKOLNIK: -- and then the 25 speech that came at the end of it.</p>	<p style="text-align: right;">Page 400</p> <p>1 inside of a deposition like this, that they are 2 at odds, but sometimes it actually does some 3 good for questioning counsel to think about 4 what the objection is and think to themselves, 5 "Hmm, you know what? That really wasn't such a 6 good-formed question. Maybe I'll reask it." 7 But that isn't relevant to what you 8 were calling me for. The point is that an 9 objection has to be extremely succinct, in the 10 form of a word and a very brief explanation so 11 that a reviewing court knows what the basis for 12 the objection is. And that's it. 13 MR. SHKOLNIK: Thank you. 14 MS. MAINIGI: David, that's fine. 15 SPECIAL MASTER COHEN: And you can 16 have an opportunity for whatever you want to 17 call it, redirect, to clean things up or ask 18 additional questions. And that's how that is 19 addressed. 20 MS. MAINIGI: David, that's fine. 21 And we'll follow that. But it doesn't work 22 perfectly, your solution, in the case of a 23 witness who can be easily influenced and who is 24 a consultant for the plaintiffs. 25 SPECIAL MASTER COHEN: You can make</p>

<p style="text-align: right;">Page 401</p> <p>1 that argument later.</p> <p>2 MS. MAINIGI: Okay. I will.</p> <p>3 MR. SHKOLNIK: Thank you very much.</p> <p>4 SPECIAL MASTER COHEN: Anything</p> <p>5 else?</p> <p>6 MR. SHKOLNIK: No. Thank you.</p> <p>7 SPECIAL MASTER COHEN: Okay.</p> <p>8 THE VIDEOGRAPHER: We are going back</p> <p>9 on the record.</p> <p>10 The 12 -- the time is 12:12.</p> <p>11 You may proceed, Counsel.</p> <p>12 BY MR. SHKOLNIK:</p> <p>13 Q. So, Mr. Wright, was I correct in</p> <p>14 stating that one of the reasons to go to a -- a</p> <p>15 industry conference is to try to get the word</p> <p>16 out to as many registrants as possible in one</p> <p>17 location?</p> <p>18 MS. MAINIGI: Objection.</p> <p>19 THE WITNESS: Yes, sir.</p> <p>20 MR. SHKOLNIK: I'm going to hand you</p> <p>21 a document which I marked as Exhibit 36.</p> <p>22 (Deposition Exhibit 36 was marked</p> <p>23 for identification.)</p> <p>24 BY MR. SHKOLNIK:</p> <p>25 Q. And it is, again, a document from</p>	<p style="text-align: right;">Page 403</p> <p>1 something, there's an official recognition that</p> <p>2 there was attendance by DEA, if you know?</p> <p>3 MR. BENNETT: Objection to form.</p> <p>4 MS. MAINIGI: Objection.</p> <p>5 MR. SHKOLNIK: I'll rephrase it.</p> <p>6 BY MR. SHKOLNIK:</p> <p>7 Q. Are you familiar with this type of</p> <p>8 notice being given out by DEA?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And is -- is this something that's</p> <p>11 utilized when DEA attends such -- something</p> <p>12 such as a conference or has a meeting that it</p> <p>13 wants to give notice of?</p> <p>14 MS. MAINIGI: Objection.</p> <p>15 MS. McCLURE: Form.</p> <p>16 BY MR. SHKOLNIK:</p> <p>17 Q. You can answer.</p> <p>18 A. Yes, sir.</p> <p>19 Q. And here it -- it -- it says that</p> <p>20 there are a number of people in attendance, and</p> <p>21 Mr. Mapes was one of the people, and it was --</p> <p>22 the topic was -- and it says a PowerPoint slide</p> <p>23 presentation.</p> <p>24 And it says Mr. Mapes, Michael</p> <p>25 Mapes, "Suspicious Orders"; am I correct?</p>
<p style="text-align: right;">Page 402</p> <p>1 the Houston conference September 11, 12, 2007.</p> <p>2 This is HDS_MDL Bates No. 2033. So it's a</p> <p>3 document produced by I believe H.D. Smith in</p> <p>4 this case.</p> <p>5 And -- and attached to this document</p> <p>6 is a PowerPoint which I don't think we've</p> <p>7 looked at yet in your deposition as well as</p> <p>8 a -- a printout from the Office of Diversion</p> <p>9 Control outlining the pharmaceutical industry</p> <p>10 conference attendees by DEA; am I correct?</p> <p>11 MS. MAINIGI: Objection.</p> <p>12 THE WITNESS: Yes, sir.</p> <p>13 BY MR. SHKOLNIK:</p> <p>14 Q. And if we could turn to what would</p> <p>15 be Bates numbered at the bottom 2035. This</p> <p>16 type of notice -- it -- at the top it says --</p> <p>17 MR. BENNETT: Hang on a second,</p> <p>18 Counsel. He's going to try to find it.</p> <p>19 MR. SHKOLNIK: Yeah. I'm going to</p> <p>20 try to -- it says "Office of Diversion</p> <p>21 Control," to help you find it.</p> <p>22 Thank you.</p> <p>23 BY MR. SHKOLNIK:</p> <p>24 Q. This type of notice is -- is common</p> <p>25 for DEA that, if you -- if you attend</p>	<p style="text-align: right;">Page 404</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 THE WITNESS: Yes, sir.</p> <p>3 BY MR. SHKOLNIK:</p> <p>4 Q. And if we could turn now to the next</p> <p>5 page that's Bates No. 2036, if we could zoom in</p> <p>6 on that.</p> <p>7 This actually -- this DEA notice</p> <p>8 also gives a -- a synopsis of what Mr. Mapes</p> <p>9 presented to the conference in Houston, this</p> <p>10 pharmaceutical conference that was attended by</p> <p>11 the individuals we -- I'm sorry -- the --</p> <p>12 withdraw that.</p> <p>13 This notice give a synopsis of Mr.</p> <p>14 Mapes's presentation; am I correct?</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 THE WITNESS: Yes, sir.</p> <p>17 BY MR. SHKOLNIK:</p> <p>18 Q. And if I'm reading it correctly --</p> <p>19 MR. SHKOLNIK: And that's my</p> <p>20 highlight on the document, just in case anyone</p> <p>21 questions it.</p> <p>22 BY MR. SHKOLNIK:</p> <p>23 Q. Toward the bottom middle section it</p> <p>24 says: In 21 CFR Section 1301.74. Other</p> <p>25 security controls include making a good faith</p>

<p style="text-align: right;">Page 405</p> <p>1 inquiry, report suspicious orders, report 2 significant losses." 3 He also quoted 21 CFR 1301.74(b): 4 "Registrant shall design and operate a system 5 to disclose to the registrant suspicious orders 6 of controlled substances. The registrant shall 7 inform the field diversion office of the 8 administration in his area of suspicious orders 9 when discovered by the registrant." 10 That was your understanding of what 11 the rule was while you were working in 12 Washington from 2005 to your retirement, 13 correct? 14 MS. MAINIGI: Objection. 15 THE WITNESS: Yes, sir. 16 BY MR. SHKOLNIK: 17 Q. And -- and just so -- so I -- I 18 understand it, was that also your understanding 19 from before getting to Washington in 2005 when 20 you were working out in the field? 21 MS. MAINIGI: Objection. 22 THE WITNESS: Yes, sir. 23 BY MR. SHKOLNIK: 24 Q. This doesn't represent any -- from 25 your perspective, this did not represent any</p>	<p style="text-align: right;">Page 407</p> <p>1 MS. MAINIGI: Objection. 2 THE WITNESS: It wasn't uncommon but 3 not necessarily done all the time. 4 BY MR. SHKOLNIK: 5 Q. Now, if we can now go to what's 6 Bates numbered 252 in this PowerPoint -- I'm 7 sorry -- in this exhibit numbered -- I think 8 it's 36. 9 And here we have -- I think we may 10 have seen a version of this earlier, but I'm 11 not sure. But I just want to ask you a few 12 questions. 13 If I read this correctly: 14 "Suspicious orders." Once again, Title 21 CFR 15 1301.74(b). "Requires registrant to design and 16 operate a system to disclose suspicious orders 17 of controlled substances to DEA." 18 That was your understanding in 2005, 19 correct, sir? 20 MS. MAINIGI: Objection. 21 THE WITNESS: Yes, sir. 22 BY MR. SHKOLNIK: 23 Q. That was your understanding straight 24 through your retirement in 2017, correct, sir? 25 MS. MAINIGI: Objection.</p>
<p style="text-align: right;">Page 406</p> <p>1 change in any law or regulation at DEA. 2 Fair statement? 3 MS. MAINIGI: Objection. 4 THE WITNESS: Yes, sir. 5 BY MR. SHKOLNIK: 6 Q. Now, by the way, it also has another 7 paragraph that talks about that a Mr. 8 Zimmerman, who I think is referred to as -- as 9 vice president corporate security regulatory 10 affairs at AmerisourceBergen, also spoke at 11 this conference. And if I'm reading it 12 correctly -- please tell me if I'm not reading 13 it correctly. 14 "Mr. Zimmerman stressed the 15 importance of knowing your customer and 16 providing due diligence investigations on all 17 new retail and wholesale accounts with the 18 exception of retail chain pharmacies included 19 in new account setup processes and new account 20 questionnaire." 21 I mean was it common that industry 22 people would speak alongside DEA people, from 23 your experience, when you attended conferences 24 like this? 25 MS. McCLURE: Object to form.</p>	<p style="text-align: right;">Page 408</p> <p>1 THE WITNESS: Yes, sir. 2 BY MR. SHKOLNIK: 3 Q. Now, if we go to the second 4 paragraph of Mr. Mapes's PowerPoint slide, it 5 says: "The requirement is to report suspicious 6 orders, not suspicious sales after the fact." 7 Did I read that correctly, sir? 8 MS. MAINIGI: Objection. 9 THE WITNESS: Yes, sir. 10 BY MR. SHKOLNIK: 11 Q. Now, what is the difference between 12 a suspicious order versus a suspicious sales 13 after the fact, if you could -- your 14 understanding? 15 MS. MAINIGI: Objection. 16 THE WITNESS: A suspicious order is 17 the order placed. I send you a request. I 18 want to order 1,500 widgets. You get this, and 19 you say that it -- that's excess -- or it's 20 suspicious, it's whatever -- 21 Q. Uh-huh. 22 A. -- and you can't fulfill it. Maybe 23 you don't even have it in stock. But if you 24 deem it's suspicious, you report it. 25 A sale --</p>

<p style="text-align: right;">Page 409</p> <p>1 Q. Thank you.</p> <p>2 A. A sale says this is completed. It's</p> <p>3 already out. It has been fulfilled. It has</p> <p>4 been delivered. And the potential harm or</p> <p>5 damage is now there.</p> <p>6 Q. So you really can't pull it back at</p> <p>7 that point once it's out into the market, is</p> <p>8 what you're saying?</p> <p>9 MS. MAINIGI: Objection.</p> <p>10 THE WITNESS: No.</p> <p>11 BY MR. SHKOLNIK:</p> <p>12 Q. So when Mr. Mapes is -- is -- is</p> <p>13 telling this group of attendees at the</p> <p>14 pharmaceutical conference "The requirement is</p> <p>15 to report suspicious orders, not suspicious</p> <p>16 sales after the fact," from your understanding,</p> <p>17 what was he telling those industry</p> <p>18 representatives that were in attendance in</p> <p>19 Houston in 2007?</p> <p>20 MS. McCLURE: Objection.</p> <p>21 Foundation.</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 Foundation.</p> <p>24 THE WITNESS: Don't let the drugs</p> <p>25 get on the street.</p>	<p style="text-align: right;">Page 411</p> <p>1 -- of that when you were working with Mr. Mapes</p> <p>2 during that time frame?</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 THE WITNESS: This was incorporated</p> <p>5 in other presentations, this very statement.</p> <p>6 BY MR. SHKOLNIK:</p> <p>7 Q. And what was the significance of</p> <p>8 that statement?</p> <p>9 MS. MAINIGI: Objection.</p> <p>10 THE WITNESS: The onus of</p> <p>11 responsibility lies with the registrant.</p> <p>12 BY MR. SHKOLNIK:</p> <p>13 Q. So that would be either the</p> <p>14 manufacturer selling to a distributor,</p> <p>15 distributor selling to a pharmacy, whichever in</p> <p>16 line you're -- is -- is occurring?</p> <p>17 MS. MAINIGI: Objection.</p> <p>18 BY MR. SHKOLNIK:</p> <p>19 Q. Is that a fair statement?</p> <p>20 MS. MAINIGI: Objection.</p> <p>21 THE WITNESS: That's correct, sir.</p> <p>22 BY MR. SHKOLNIK:</p> <p>23 Q. And -- and you were asked some</p> <p>24 questions the other day by counsel about</p> <p>25 visibility. And I think the questions focused</p>
<p style="text-align: right;">Page 410</p> <p>1 BY MR. SHKOLNIK:</p> <p>2 Q. Was that the -- was that the word</p> <p>3 that the DEA was trying to get out to man --</p> <p>4 withdraw that.</p> <p>5 From your recollection and</p> <p>6 understanding, was that the word that your</p> <p>7 group at DEA and DEA at the time was trying to</p> <p>8 get out to industry?</p> <p>9 MS. MAINIGI: Objection.</p> <p>10 MR. SHKOLNIK: You knew the</p> <p>11 objection was coming.</p> <p>12 THE WITNESS: This was the</p> <p>13 difference between the old system of Excessive</p> <p>14 and the new system Suspicious. Excessive it</p> <p>15 was reporting after the sale. Suspicious was</p> <p>16 to catch them before it went out.</p> <p>17 BY MR. SHKOLNIK:</p> <p>18 Q. And -- and if we could turn, if you</p> <p>19 would, to Bates No. 254.</p> <p>20 A. Okay.</p> <p>21 Q. In this slide that -- in Mr. Mapes's</p> <p>22 presentation, "The responsibility for making</p> <p>23 the decision ship" -- "ship rests with the</p> <p>24 supplier."</p> <p>25 What was your understanding of -- of</p>	<p style="text-align: right;">Page 412</p> <p>1 on who would have visibility of what, would it</p> <p>2 be manufacturer to distributor, distributor to</p> <p>3 pharmacy.</p> <p>4 Do you recall those questions the</p> <p>5 other day?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 THE WITNESS: I do, sir.</p> <p>8 BY MR. SHKOLNIK:</p> <p>9 Q. And one of the -- the -- sort of the</p> <p>10 gist of what you were being asked is, "Well,</p> <p>11 does a manufacturer see what's at the</p> <p>12 pharmacist? Does a distributor see what's --</p> <p>13 do they see everything? Who sees what?"</p> <p>14 Is that a fair statement from the</p> <p>15 questions you were asked?</p> <p>16 MS. MAINIGI: Objection.</p> <p>17 THE WITNESS: Yes, sir.</p> <p>18 BY MR. SHKOLNIK:</p> <p>19 Q. And is it your understanding that,</p> <p>20 generally speaking, there may not be situations</p> <p>21 -- there may be situations where a manufacturer</p> <p>22 doesn't know what a pharmacy is doing, correct?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 THE WITNESS: That'd be correct.</p> <p>25 BY MR. SHKOLNIK:</p>



<p style="text-align: right;">Page 413</p> <p>1 Q. And there are situations where only 2 a distributor may have certain information 3 about a pharmacy, correct? 4 MS. MAINIGI: Objection. 5 THE WITNESS: Yes, sir. 6 BY MR. SHKOLNIK: 7 Q. But there are also situations -- 8 withdraw that. 9 Were you aware of situations back 10 when you were -- at the agency that 11 manufacturers, distributors and pharmacies 12 actually shared the data up and down the stream 13 through sharing agreements? 14 Were you aware of that? 15 A. No, sir. 16 MS. MAINIGI: Objection. 17 BY MR. SHKOLNIK: 18 Q. And just -- the other day you were 19 asked questions about the issue of -- of 20 shipping and -- and not -- when this idea of do 21 not ship comes into -- comes into play. 22 Do you recall that? 23 A. Yes, sir. 24 MS. MAINIGI: Objection. 25 BY MR. SHKOLNIK:</p>	<p style="text-align: right;">Page 415</p> <p>1 Q. And there was no sea change in 2000 2 time frame, mid 2000s, in terms of changing of 3 the regulations in that regard, correct? 4 MS. MAINIGI: Objection. 5 THE WITNESS: Yes, sir. 6 MR. SHKOLNIK: In fact, I'm going to 7 mark as Exhibit No. 30 -- was the last one 37? 8 MR. BENNETT: 37. 9 THE REPORTER: We were up to 37. 10 MR. SHKOLNIK: Okay. The next 11 exhibit's going to be 38. I'm going to hand 12 you -- 13 (Discussion held off the 14 stenographic record.) 15 MR. SHKOLNIK: Going to hand you a 16 document marked as Exhibit No. 37. 17 (Deposition Exhibit 37 was marked 18 for identification.) 19 MR. SHKOLNIK: It is Bates numbered 20 Cardinal 2804_01465723, dated June 21, 1993. 21 And it's entitled "NWDA Suspicious Order 22 Monitoring System." 23 BY MR. SHKOLNIK: 24 Q. When you were at DEA, was it part of 25 your job to try to determine what was -- what</p>
<p style="text-align: right;">Page 414</p> <p>1 Q. And -- and would I be correct in 2 stating that there -- from all the years that 3 you were at DEA, there were regulations in 4 place that dealt with the obligations of a 5 registrant not to ship if there was a 6 suspicious order that they could identify, 7 correct? 8 MS. MAINIGI: Objection. 9 THE WITNESS: Yes, sir. 10 BY MR. SHKOLNIK: 11 Q. I mean that was not a new phenomenon 12 in 2005, '6, '7, was it, sir? 13 MS. MAINIGI: Objection. 14 THE WITNESS: No, sir. 15 BY MR. SHKOLNIK: 16 Q. And that obligation was on -- was in 17 place for whether it was a pharmacy, whether it 18 was a chain pharmacy, whether it was a 19 distributor, whether it was a manufacturer; if 20 they identified a suspicious order, the 21 obligation was on them to decide if they should 22 ship it or not, correct? 23 MS. MAINIGI: Objection. 24 THE WITNESS: Yes, sir. 25 BY MR. SHKOLNIK:</p>	<p style="text-align: right;">Page 416</p> <p>1 was the regulatory requirements that -- that -- 2 that you were working under in terms of the 3 controlled substance monitoring? 4 MS. MAINIGI: Objection. 5 MR. SHKOLNIK: I'll rephrase that. 6 BY MR. SHKOLNIK: 7 Q. When you were working another DEA at 8 the field office and again in -- in D.C., did 9 -- did -- did; you try to become aware of what 10 the regulations were? 11 MS. MAINIGI: Objection. 12 THE WITNESS: Absolutely. 13 BY MR. SHKOLNIK: 14 Q. I mean that was part of your job to 15 know what you were trying to enforce, correct? 16 MS. MAINIGI: Objection. 17 THE WITNESS: Yes, sir. 18 BY MR. SHKOLNIK: 19 Q. And if -- if we could turn -- have 20 you ever heard of the National Wholesale 21 Druggists Association? 22 A. Vaguely. 23 Q. And -- and what was your 24 understanding of it? 25 MS. MAINIGI: Objection.</p>

<p style="text-align: right;">Page 417</p> <p>1 THE WITNESS: Another industry 2 organization sharing their issues specifically 3 dealing with government proposed legislation 4 and other issues. 5 BY MR. SHKOLNIK: 6 Q. And if we could just look at Page 1 7 of Exhibit No. 37. This -- this is entitled 8 "The NWDA Suspicious Order Monitoring System." 9 Were you aware that -- that the 10 National Wholesale Druggists Association had 11 promulgated its own policy for its members 12 regarding the Suspicious Order Monitoring 13 System -- Systems? 14 MS. MAINIGI: Objection. 15 THE WITNESS: No, sir. 16 BY MR. SHKOLNIK: 17 Q. Were you aware that in 1993 that 18 industry with -- that -- that -- that the 19 industry group for chain pharmacies and 20 pharmacies was promulgating any rules for their 21 organization members regarding monitoring for 22 suspicious orders? 23 MS. MAINIGI: Objection. 24 THE WITNESS: No, sir. 25 BY MR. SHKOLNIK:</p>	<p style="text-align: right;">Page 419</p> <p>1 that they should report immediately if they 2 identify a order of unusual size or deviation, 3 that that was a recommendation to the industry, 4 the -- the wholesale druggist industry, back in 5 the '90s? 6 Would that surprise you? 7 MS. MAINIGI: Objection. 8 THE WITNESS: Yes, sir. 9 BY MR. SHKOLNIK: 10 Q. Okay. Why is -- why would it 11 surprise you, sir? 12 MS. MAINIGI: Objection. 13 THE WITNESS: Because, in my field 14 experience, I did not see this in practice. 15 BY MR. SHKOLNIK: 16 Q. Would -- would you have -- from -- 17 from your experience, would you have -- would 18 you have liked to have seen this in practice in 19 the industry, this recommendation? 20 MS. MAINIGI: Objection. 21 THE WITNESS: Yes, sir. I would 22 have welcomed it. 23 BY MR. SHKOLNIK: 24 Q. And then it goes on to say: "The 25 submission of a monthly printout of</p>
<p style="text-align: right;">Page 418</p> <p>1 Q. If we could turn to Page 7, Bates 2 number ending in 730, it says "Single 3 Suspicious Orders." 4 "Single orders of unusual size or 5 deviations must be reported immediately." 6 Were you aware that members of the 7 National Wholesale -- I'm sorry -- the National 8 -- got to make sure I get it right -- Wholesale 9 Druggist Association were aware in 1993 that 10 they were being guided that they should report 11 orders of unusual size or deviation 12 immediately? 13 Were you aware of that? 14 A. No, sir. 15 MS. MAINIGI: Objection. 16 BY MR. SHKOLNIK: 17 Q. Was that consistent with your 18 understanding of what was being -- of what the 19 regulations were when you were in DEA, 95 20 through your retirement? 21 MS. MAINIGI: Objection. 22 THE WITNESS: Yes, sir. 23 BY MR. SHKOLNIK: 24 Q. Does it -- would it be surprising to 25 you that -- that a recommendation such as this,</p>	<p style="text-align: right;">Page 420</p> <p>1 after-the-fact sales will not relieve a 2 registrant from the responsibility of reporting 3 these single excessive or suspicious orders." 4 Were you aware that was a 5 recommendation being made to industry before 6 you even started at DEA in '95? 7 MS. MAINIGI: Objection. 8 THE WITNESS: No, sir. 9 BY MR. SHKOLNIK: 10 Q. Did you see any of these wholesale 11 chain pharmacies or wholesale pharmacy members 12 implementing this type of responsibility 13 regarding suspicious orders in -- withdraw 14 that. 15 Did you observe pharmacies, chain 16 pharmacies, following this recommendation while 17 you were at DEA out in the field and again in 18 D.C.? 19 MS. MAINIGI: Objection. 20 THE WITNESS: No, sir. 21 BY MR. SHKOLNIK: 22 Q. Would you have liked to have seen 23 them comply with this recommendation by the -- 24 the Wholesale Druggists Association while you 25 were working at DEA?</p>

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1 Would you have like that, sir?

2 MS. MAINIGI: Objection.

3 THE WITNESS: Very much.

4 BY MR. SHKOLNIK:

5 Q. Why?

6 MS. MAINIGI: Objection.

7 THE WITNESS: This is reiterating

8 what we were emphasizing at the time.

9 BY MR. SHKOLNIK:

10 Q. When --

11 A. This would have -- if it had come on

12 and been utilized, we may not have been steeped

13 in the endemic problem that we were

14 experiencing at the time. It could have

15 effectively kept it down to a lower level and

16 potentially fewer problems, addictions and

17 deaths.

18 Q. And -- and by the way, the last

19 sentence, the DEA interpreted orders to mean

20 prior to shipment.

21 Wasn't that something that you were

22 telling everybody from 2005 until your

23 retirement in 2017, that that's what -- that

24 was your recommendation?

25 MS. MAINIGI: Objection.

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1 THE WITNESS: Yes, sir.

2 BY MR. SHKOLNIK:

3 Q. Did you know that they were being

4 told that by the their agents -- by their own

5 lobbying group, trade association, that that

6 was the definition back in 1993?

7 MS. MAINIGI: Objection.

8 THE WITNESS: No, sir. I did not.

9 BY MR. SHKOLNIK:

10 Q. Did any of the registrants that you

11 met with, sir, ever tell you that they had a

12 trade organization that recommended that orders

13 should be reported immediately and orders meant

14 before shipment?

15 Did anyone ever -- any of these

16 people you met with ever say, "We knew about

17 this back in 1993"?

18 MS. MAINIGI: Objection.

19 THE WITNESS: No, sir.

20 BY MR. SHKOLNIK:

21 Q. In fact, they were telling you, sir,

22 "This is new to us. We didn't even know about

23 this."

24 Isn't that what they were really

25 saying? "This is a sea change to us."

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1 Fair statement?

2 MS. MAINIGI: Objection.

3 THE WITNESS: Yes, sir.

4 BY MR. SHKOLNIK:

5 Q. Looking at that document, sir, were

6 they being honest with you where -- any

7 registrant that was a member of that

8 organization, if they said to you, sir, "This

9 is new, we didn't know about it before," would

10 they have been honest with you --

11 MR. BENNETT: Objection.

12 MS. MAINIGI: Objection.

13 BY MR. SHKOLNIK:

14 Q. -- based on what we just read?

15 A. No, sir.

16 MR. SHKOLNIK: Okay. I'm going to

17 mark for Exhibit -- Exhibit No. 38 a document

18 from 1984.

19 Did I tell you '34? '84. Sorry.

20 '84. It's in your copy? Okay. I'm sorry.

21 We're not changing the markings on

22 this one then. Good thing I had someone else

23 here.

24 BY MR. SHKOLNIK:

25 Q. If we can go to Bates numbered 5732

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1 in that last exhibit.

2 A. Excuse me. What page?

3 Q. Bates number is 5732 at the bottom.

4 I'll show you a document -- a letter

5 that was sent to nation -- the vice

6 president --

7 MR. BENNETT: Counsel, can you give

8 me one second.

9 MR. SHKOLNIK: Sure.

10 MR. BENNETT: Thank you, Counsel.

11 We're good.

12 BY MR. SHKOLNIK:

13 Q. I'm going to show -- just read from

14 this letter that was sent in 1984 from DEA.

15 And it's diversion operation section chief, Mr.

16 Tom Gitchel.

17 Do you know that name at all?

18 MS. MAINIGI: Objection.

19 BY MR. SHKOLNIK:

20 Q. May have been before your time.

21 A. Oh, I heard his name many a time.

22 Q. Okay. This is a letter he wrote to

23 the Wholesale Druggist Association where he

24 said in his letter: "As previously discussed,

25 an after-the-fact computer printout of sales

<p style="text-align: right;">Page 425</p> <p>1 data does not relieve a registrant of its 2 responsibility to report excessive or 3 suspicious orders when discovered. I'm 4 enclosing a copy of your draft with my pen and 5 ink changes." 6 Were you aware that the members of 7 the National Wholesale Druggists Association, 8 as far back as '84, was advised by the DEA that 9 these monthly after-the-fact reports did not 10 relieve them of their responsibility to report 11 excessive or suspicious orders when discovered? 12 MS. MAINIGI: Objection. 13 BY MR. SHKOLNIK: 14 Q. Were you aware of that when -- when 15 you were at DEA? 16 MS. MAINIGI: Objection. 17 THE WITNESS: No, sir. 18 BY MR. SHKOLNIK: 19 Q. In all the times that you had 20 meetings with registrants, pharmacy chains, at 21 any time did anyone ever say to you, "By the 22 way, we already knew about this requirement to 23 report way back in '84. And there's nothing 24 new about what you're telling us in 2005 and 25 2006 and 2007"?</p>	<p style="text-align: right;">Page 427</p> <p>1 Isn't that you -- what you were 2 hearing from industry in 2005 on when you told 3 them that their obligation was to investigate, 4 report and don't ship? 5 Isn't -- wasn't that their response 6 to you? 7 MS. MAINIGI: Objection. 8 THE WITNESS: Yes, sir. 9 BY MR. SHKOLNIK: 10 Q. And -- and you were asked to -- to 11 read your testimony from a -- a trial by 12 counsel the other day where -- where your 13 testimony was that there -- there was a change 14 in -- in -- in circumstances. 15 Did anyone before you testified in 16 that trial ever show you the 1984 document, 17 this 1993 document? 18 Did anyone ever show those to you 19 before you testified in preparation for your 20 testimony? 21 MS. MAINIGI: Objection. 22 THE WITNESS: No, sir. 23 BY MR. SHKOLNIK: 24 Q. Would you have liked to have had 25 that as preparation for your testimony to know</p>
<p style="text-align: right;">Page 426</p> <p>1 Did they ever say that? 2 MS. MAINIGI: Objection. 3 THE WITNESS: No, sir. 4 BY MR. SHKOLNIK: 5 Q. Would you have liked to have known 6 that they knew about it for decades by the time 7 you told them this in 2005, '6, '7 and so on? 8 MS. MAINIGI: Objection. 9 THE WITNESS: Yes, sir. 10 BY MR. SHKOLNIK: 11 Q. Why? 12 Why would you have liked to have 13 known that? 14 MS. MAINIGI: Objection. 15 THE WITNESS: Because it would have 16 shown institutional knowledge of the 17 requirements, the regulation, that we weren't 18 throwing something new or startling at them; 19 that we were simply trying to enforce the 20 regulations that had existed already. 21 BY MR. SHKOLNIK: 22 Q. And would it be fair to say you 23 repeatedly were met with the response that, 24 "This is new. You're changing the rules on 25 us"?</p>	<p style="text-align: right;">Page 428</p> <p>1 what DEA had told the people in industry going 2 back to '84? 3 Wouldn't that have helped you, sir? 4 MS. MAINIGI: Objection. 5 THE WITNESS: It certainly would 6 have. 7 BY MR. SHKOLNIK: 8 Q. Would you have liked to have had 9 counsel show that to you when you were being 10 confronted with your testimony from 2011 the 11 other day? 12 MR. BENNETT: Objection to form. 13 MS. MAINIGI: Objection. 14 MR. BENNETT: I'm sorry. Were you 15 talk defense counsel? 16 MR. SHKOLNIK: Oh, yeah. 17 MR. BENNETT: I withdraw my 18 objection. I thought you were talking about 19 me. 20 MR. SHKOLNIK: That was good. 21 MS. MAINIGI: I think he was talking 22 about defense counsel too. 23 MR. SHKOLNIK: Yes, I was. 24 BY MR. SHKOLNIK: 25 Q. Would you have liked to have had</p>

<p style="text-align: right;">Page 429</p> <p>1 that -- those documents presented to you at the</p> <p>2 same time?</p> <p>3 A. Yes, sir.</p> <p>4 MS. MAINIGI: Objection.</p> <p>5 MR. SHKOLNIK: I'm going to give you</p> <p>6 a document I'm marking as Exhibit 36.</p> <p>7 MR. BENNETT: I'm sorry. Would this</p> <p>8 be 38?</p> <p>9 MR. SHKOLNIK: 38. I'm sorry. I'm</p> <p>10 horrible with exhibits. That's why I need</p> <p>11 other people doing this.</p> <p>12 (Deposition Exhibit 38 was marked</p> <p>13 for identification.)</p> <p>14 BY MR. SHKOLNIK:</p> <p>15 Q. I'm going to show you a document</p> <p>16 from -- let me see -- 1996 so this is after you</p> <p>17 were at DEA. If you could take a look at it.</p> <p>18 It's from Department of Justice to</p> <p>19 Cardinal Health, Bates number is 2203353.</p> <p>20 MR. STEPHENS: Counsel, is this 38</p> <p>21 or 39?</p> <p>22 MR. SHKOLNIK: This is 38, am I</p> <p>23 correct? 38.</p> <p>24 MR. BENNETT: Counsel, may I've one</p> <p>25 second?</p>	<p style="text-align: right;">Page 431</p> <p>1 this copy of the manual was -- according to</p> <p>2 what we have here, was sent to Cardinal Health.</p> <p>3 And it says: "The" registrant -- "registrants</p> <p>4 are required to inform DEA of suspicious orders</p> <p>5 in accordance with 21 CFR 1301.74(b). DEA</p> <p>6 field offices are not to approve or disapprove</p> <p>7 supplier shipments of controlled substance."</p> <p>8 That was your understanding of the</p> <p>9 rules that you worked under back when you were</p> <p>10 at DEA, correct?</p> <p>11 MS. McCLURE: Objection. Misstates</p> <p>12 prior testimony.</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 THE WITNESS: Yes, sir.</p> <p>15 BY MR. SHKOLNIK:</p> <p>16 Q. And -- and a manual like this is</p> <p>17 something you had to -- you had to act in</p> <p>18 accordance with; am I correct?</p> <p>19 MS. MAINIGI: Objection.</p> <p>20 THE WITNESS: Or receive special --</p> <p>21 BY MR. SHKOLNIK:</p> <p>22 Q. Dispensation?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. And then it says: "The</p> <p>25 responsibility for making the decision to ship</p>
<p style="text-align: right;">Page 430</p> <p>1 MR. SHKOLNIK: Sure.</p> <p>2 MR. BENNETT: Thank you, counsel.</p> <p>3 We're okay.</p> <p>4 BY MR. SHKOLNIK:</p> <p>5 Q. If you could just take a look at</p> <p>6 Bates No. 3355. It's a -- it's a cover of a</p> <p>7 manual that says "Diversion Investigator</p> <p>8 Manual."</p> <p>9 Were you familiar with this manual</p> <p>10 at all, sir?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And -- and I'm going to -- let's</p> <p>13 turn to Bates numbered 3356, if we -- if we</p> <p>14 could.</p> <p>15 And it's -- the top of the page it</p> <p>16 says "DEA Sensitive." And then when we go down</p> <p>17 the page, there's a section that says:</p> <p>18 "Requirement to report suspicious orders."</p> <p>19 So was it your understanding that</p> <p>20 this manual was in effect when -- when you went</p> <p>21 out in the field for DEA?</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 THE WITNESS: Yes, sir.</p> <p>24 BY MR. SHKOLNIK:</p> <p>25 Q. And -- and here this -- apparently</p>	<p style="text-align: right;">Page 432</p> <p>1 substance" -- I'm sorry. I'm sorry.</p> <p>2 "DEA field offices are not to</p> <p>3 approve or disapprove supplier shipments of</p> <p>4 controlled substances. The responsibility for</p> <p>5 making the decision to ship rests with the</p> <p>6 supplier."</p> <p>7 That's what you at DEA, from your</p> <p>8 recollection, is what you were telling people</p> <p>9 back in 1996 and forward, correct?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 THE WITNESS: Yes, sir.</p> <p>12 BY MR. SHKOLNIK:</p> <p>13 Q. And down at the bottom it says:</p> <p>14 "Registrants who routinely report suspicious</p> <p>15 orders yet fill these orders with reason to</p> <p>16 believe they are destined for illicit market</p> <p>17 are expressing an attitude of</p> <p>18 irresponsibility."</p> <p>19 Did you recall that being the --</p> <p>20 the -- the position of DEA while you were with</p> <p>21 them from '96 right through to your retirement?</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 BY MR. SHKOLNIK:</p> <p>24 Q. Basically your understanding?</p> <p>25 A. Yes, sir.</p>



<p style="text-align: right;">Page 433</p> <p>1 Q. If we could just turn to the next 2 page. 3 MR. SHKOLNIK: And by the way, just 4 so the record's clear, this is my highlighting. 5 This didn't come from DEA like this or 6 Cardinal. 7 BY MR. SHKOLNIK: 8 Q. "The supplier can determine whether 9 the order is excessive by checking their own 10 sales and establishing the average amount of 11 controlled substances shipped to the 12 registrants of the same apparent size in a 13 particular geographic area. 14 Was that your -- your understanding 15 while you were at DEA? 16 MS. MAINIGI: Objection. 17 THE WITNESS: Yes, sir. 18 BY MR. SHKOLNIK: 19 Q. And it goes on to say: "If the 20 customer exceeds the threshold, the request 21 should be viewed as suspicious. This activity 22 over extended periods of time would lead a 23 reasonable person to believe the controlled 24 substance are possibly being diverted." 25 Was that your understanding when you</p>	<p style="text-align: right;">Page 435</p> <p>1 MS. MAINIGI: Objection. 2 BY MR. SHKOLNIK: 3 Q. That we just looked at, sir? 4 A. It does, sir. 5 Q. And are you familiar with something 6 called the "Chemical Handlers Manual"? 7 A. Yes, sir. 8 Q. You say that with a sigh. 9 How do you know about that document? 10 A. Many long hours enforcing it. 11 Q. Okay. And -- and is your 12 understanding that the Chemical Handlers Manual 13 was -- was utilized by some of the registrants 14 or many registrants as a manner in which they 15 thought they would be in compliance with the 16 regulations? 17 MS. MAINIGI: Objection. 18 THE WITNESS: Yes, sir. 19 BY MR. SHKOLNIK: 20 Q. And if -- if -- if I'm not mistaken, 21 you were shown what we -- was referred to as 22 a -- I think it's a -- an ingredient list 23 report. I don't remember the exact exhibit 24 number. The thick compilation that you have 25 there.</p>
<p style="text-align: right;">Page 434</p> <p>1 were at DEA? 2 MS. MAINIGI: Objection. 3 THE WITNESS: Yes, sir. 4 BY MR. SHKOLNIK: 5 Q. And was that something that, when 6 you were going out and having these 7 presentations, you were impressing upon the 8 registrants that's you presented to? 9 MS. MAINIGI: Objection. 10 BY MR. SHKOLNIK: 11 Q. Correct? 12 A. Yes, sir. 13 Q. And this was not something new in 14 2005 forward; this is -- this was clearly in 15 place back in 1996, correct, sir? 16 MS. MAINIGI: Objection. 17 THE WITNESS: Correct. 18 BY MR. SHKOLNIK: 19 Q. And from what we saw from other 20 documents, even earlier, correct? 21 MS. MAINIGI: Objection. 22 THE WITNESS: Yes, sir. 23 BY MR. SHKOLNIK: 24 Q. And the 1984 letter from DEA says 25 that, does it not?</p>	<p style="text-align: right;">Page 436</p> <p>1 MR. BENNETT: 26. 2 BY MR. SHKOLNIK: 3 Q. Number -- Exhibit 26. 4 Were -- were -- were you under the 5 impression that documents like that were being 6 generated based upon an interpretation of the 7 Chemical Handlers Manual? 8 MS. MAINIGI: Objection. 9 THE WITNESS: No, I did not. 10 BY MR. SHKOLNIK: 11 Q. Did -- none of the manufacturers, to 12 your knowledge, ever told -- I'm sorry -- 13 manufacturers, distributors or pharmacies ever 14 suggested that they were basing their analyses 15 on the Chemical Handlers Manual? 16 MS. MAINIGI: Objection. 17 THE WITNESS: No, sir. 18 BY MR. SHKOLNIK: 19 Q. To your knowledge, sir -- withdraw 20 that. 21 Mr. Wright, was the Chemical 22 Handlers Manual the -- the -- the criteria set 23 forth in the manual, in terms of the 24 determining suspicious orders or not, did that 25 apply to opioids?</p>

<p style="text-align: right;">Page 437</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 MR. SHKOLNIK: I'm sorry. I put the</p> <p>3 sticker on the wrong one. Let me give you a</p> <p>4 copy.</p> <p>5 I'm going to withdraw the question.</p> <p>6 Let me just withdraw that.</p> <p>7 MS. MAINIGI: What was the answer?</p> <p>8 Did we have an answer?</p> <p>9 MR. SHKOLNIK: I withdrew the</p> <p>10 question. There was no answer.</p> <p>11 MS. MAINIGI: Oh, he didn't answer</p> <p>12 the question.</p> <p>13 MR. SHKOLNIK: No. I can't withdraw</p> <p>14 it if he answered it.</p> <p>15 (Deposition Exhibit 39 was marked</p> <p>16 for identification.)</p> <p>17 BY MR. SHKOLNIK:</p> <p>18 Q. I've handed you a copy of the 2004</p> <p>19 Chemical Handlers Manual.</p> <p>20 Do you recall ever seeing that</p> <p>21 actual manual before?</p> <p>22 MS. McCLURE: Counsel, for the</p> <p>23 record, can you please read the Bates number.</p> <p>24 MR. SHKOLNIK: Yes. This copy is</p> <p>25 from Walgreens 395965 dated January 2004.</p>	<p style="text-align: right;">Page 439</p> <p>1 THE WITNESS: Okay.</p> <p>2 BY MR. SHKOLNIK:</p> <p>3 Q. Let's try that again. I'll read it</p> <p>4 slow.</p> <p>5 "When a regulated person suspects</p> <p>6 that an order may be intended for illicit</p> <p>7 purposes, good practice requires that every</p> <p>8 reasonable effort be made to resolve those</p> <p>9 suspicions."</p> <p>10 Was that your understanding of the</p> <p>11 requirement of registrants?</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 THE WITNESS: No, sir.</p> <p>14 MR. SHKOLNIK: Oh, okay.</p> <p>15 THE WITNESS: Regulated was not a</p> <p>16 registrant.</p> <p>17 BY MR. SHKOLNIK:</p> <p>18 Q. Ah.</p> <p>19 What's a regulated?</p> <p>20 A. Regulated meant that they were</p> <p>21 downstream. We could not regulate every</p> <p>22 7-Eleven in town. We -- our system couldn't</p> <p>23 accommodate that because this was the only</p> <p>24 product that they were selling. So they were</p> <p>25 not registrants. They were regulated. The</p>
<p style="text-align: right;">Page 438</p> <p>1 MR. STEPHENS: What's the exhibit</p> <p>2 number?</p> <p>3 MR. SHKOLNIK: 39.</p> <p>4 BY MR. SHKOLNIK:</p> <p>5 Q. Have you ever seen this before?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. If we could turn to Page 10</p> <p>8 of the Chemical Handlers Manual, Exhibit 39.</p> <p>9 I'm going to read one paragraph from the --</p> <p>10 from the 2000 -- I'm sorry -- from the 2004</p> <p>11 version of it.</p> <p>12 "When a regulated person suspects an</p> <p>13 order may be intended for illicit purposes,</p> <p>14 good practice requires that every reasonable</p> <p>15 effort made to resolve those" suspicious --</p> <p>16 "those suspicions."</p> <p>17 Was -- was that your understanding</p> <p>18 of a requirement of registrants when -- when</p> <p>19 you were at DEA?</p> <p>20 MR. TAYMAN: What page are you at?</p> <p>21 MS. MAINIGI: Yeah. You said 10.</p> <p>22 MR. SHKOLNIK: Oh, 19. I'm sorry.</p> <p>23 19.</p> <p>24 THE WITNESS: 19?</p> <p>25 MR. SHKOLNIK: Yeah. 19.</p>	<p style="text-align: right;">Page 440</p> <p>1 registrants above them would be the suppliers.</p> <p>2 Q. So in -- when it says "In addition</p> <p>3 to making required reports, transactions should</p> <p>4 not be completed until the customer is able to</p> <p>5 eliminate the suspicions," what does that mean?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 MR. BENNETT: Objection.</p> <p>8 THE WITNESS: The --</p> <p>9 BY MR. SHKOLNIK:</p> <p>10 Q. I'm sorry.</p> <p>11 Do you understand what that means?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. What does that mean?</p> <p>14 MS. MAINIGI: Objection.</p> <p>15 MR. BENNETT: Objection.</p> <p>16 Counsel, are you asking his</p> <p>17 understanding of what this --</p> <p>18 MR. SHKOLNIK: Yeah. His</p> <p>19 understanding, not DEA's.</p> <p>20 MR. BENNETT: Then I withdraw the</p> <p>21 objection.</p> <p>22 THE WITNESS: Don't let the product</p> <p>23 get into illicit markets or systems.</p> <p>24 BY MR. SHKOLNIK:</p> <p>25 Q. "The distributor may have to forgo</p>

<p style="text-align: right;">Page 441</p> <p>1 some transactions."  2 Did you -- did you have an  3 understanding as to what that meant?  4 MS. MAINIGI: Objection.  5 MS. McCLURE: Objection.  6 THE WITNESS: Yes.  7 BY MR. SHKOLNIK:  8 Q. What did that mean to you, sir?  9 A. Don't let it get into the system.  10 Q. That was something known long before  11 even 2004 while you were at DEA, correct?  12 MS. MAINIGI: Objection.  13 THE WITNESS: Yes, sir.  14 BY MR. SHKOLNIK:  15 Q. Are you familiar with an action  16 brought by DEA against Novelty Distributors,  17 Inc.?  18 MS. McCLURE: Objection.  19 BY MR. SHKOLNIK:  20 Q. I'm not going to ask about any  21 specific investigation but the case in -- in  22 particular.  23 A. I do recall that litigation.  24 Q. I don't want to know any details,  25 but were you involved in that or just aware of?</p>	<p style="text-align: right;">Page 443</p> <p>1 Date of the opinion on the order is  2 September 3, 2008.  3 BY MR. SHKOLNIK:  4 Q. Says: "Fundamental to its  5 obligation to maintain effective controls  6 against diversion, a distributor must review  7 every order and identify suspicious"  8 transaction -- "transactions. Further, it must  9 do so prior to shipping the products. Indeed,  10 a distributor has an affirmative duty to forgo  11 a transaction if, upon investigation, it is  12 unable to determine that the proposed  13 transaction is for legitimate purposes."  14 And it's referencing the Chemical  15 Handlers Manual for 2002.  16 Is this -- in this opinion, is this  17 consistent with what we just looked at in the  18 2004 Chemical Handlers Manual?  19 MS. MAINIGI: Objection.  20 THE WITNESS: Yes, sir.  21 BY MR. SHKOLNIK:  22 Q. "Respondents procedure of  23 post-transaction review is incompatible with  24 its obligation to identify and forgo suspicious  25 transactions."</p>
<p style="text-align: right;">Page 442</p> <p>1 A. I was only aware.  2 Q. Okay. Did -- did you ever become  3 aware of the fact that Novelty Drugs -- the  4 decision not -- with -- withdraw that.  5 (Deposition Exhibit 40 was marked  6 for identification.)  7 BY MR. SHKOLNIK:  8 Q. I'm going to hand you a document I  9 marked as Exhibit 40, a copy of it. December  10 -- I'm sorry. September 2008 letter from  11 Department of Justice. And attached to it is  12 the decision in Novelty Distributors, Inc.,  13 revocation of registration.  14 Were -- were you --  15 MR. BENNETT: Give me one second,  16 Counsel.  17 MR. SHKOLNIK: Yeah.  18 BY MR. SHKOLNIK:  19 Q. If we could turn to Page No. 39. I  20 think I actually got that one right too.  21 In the Novelty Distributors, Inc.,  22 case there is a -- I'm going to read a section  23 of it.  24 MR. SHKOLNIK: Yeah. Good idea. I  25 think I said it was 2008.</p>	<p style="text-align: right;">Page 444</p> <p>1 Was that your understanding of what  2 -- of -- of -- of the state of the regulations  3 while you were at DEA?  4 MS. MAINIGI: Objection.  5 THE WITNESS: Yes, sir.  6 BY MR. SHKOLNIK:  7 Q. You're aware -- sir, are you aware  8 that AmerisourceBergen had a DEA-issued order  9 to show cause and immediate suspension order  10 issued against it in 2007 for -- for shipping  11 suspicious orders?  12 Were you aware of that?  13 MS. McCLURE: Objection. Same  14 objection.  15 MS. MAINIGI: Objection.  16 THE WITNESS: Yes, sir.  17 BY MR. SHKOLNIK:  18 Q. If -- if AmerisourceBergen in 2007  19 was shipping suspicious orders without doing a  20 due diligence investigation before shipping, if  21 that was the case, was that after you started  22 doing those presentations telling the -- the  23 registrants that they shouldn't be shipping  24 without doing due diligence?  25 MS. McCLURE: Objection.</p>

<p style="text-align: right;">Page 445</p> <p>1 MS. MAINIGI: And, Mr. Bennett, are</p> <p>2 you allowing questions on specific --</p> <p>3 MR. BENNETT: If 2007 is after 2005?</p> <p>4 MR. SHKOLNIK: Yeah.</p> <p>5 MS. MAINIGI: Well, he's referencing</p> <p>6 the ABDC investigation. So I was --</p> <p>7 MR. BENNETT: I thought he said</p> <p>8 "immediate suspension order."</p> <p>9 MS. MAINIGI: Well, it sounds like</p> <p>10 he's asking him to draw upon --</p> <p>11 MR. SHKOLNIK: Well --</p> <p>12 MS. MAINIGI: -- something from the</p> <p>13 investigation --</p> <p>14 MR. BENNETT: I don't --</p> <p>15 MS. MAINIGI: -- order to answer</p> <p>16 that question.</p> <p>17 MR. BENNETT: Sure. And if -- if --</p> <p>18 MS. MAINIGI: If he -- if he needs</p> <p>19 to know if 2008 is before 2007, that's fine.</p> <p>20 But I would like --</p> <p>21 MR. SHKOLNIK: Okay. You know</p> <p>22 something? No. Let's go off the record if</p> <p>23 you're going to have a conversation. All</p> <p>24 right?</p> <p>25 MS. MAINIGI: I --</p>	<p style="text-align: right;">Page 447</p> <p>1 go on the record first.</p> <p>2 THE VIDEOGRAPHER: We are on the</p> <p>3 record.</p> <p>4 MS. MAINIGI: Okay. Thank you.</p> <p>5 MR. BENNETT: The answer is that the</p> <p>6 witness is not authorized to talk about any</p> <p>7 specific investigations.</p> <p>8 To the extent that the question</p> <p>9 called for information about a specific</p> <p>10 investigation, Mr. Wright's not authorized to</p> <p>11 answer that question.</p> <p>12 I did not understand the question to</p> <p>13 have called for information about a specific</p> <p>14 investigation.</p> <p>15 MR. SHKOLNIK: And it wasn't.</p> <p>16 MR. BENNETT: But if it -- if it</p> <p>17 does, Mr. Wright, you are instructed that you</p> <p>18 cannot talk about any specifics of the</p> <p>19 AmerisourceBergen investigation. However, if</p> <p>20 there is a publicly-filed document that you're</p> <p>21 aware of, you may talk about the contents of</p> <p>22 that but not the investigation.</p> <p>23 Do you understand?</p> <p>24 THE WITNESS: I understand.</p> <p>25 MR. SHKOLNIK: Just so the record is</p>
<p style="text-align: right;">Page 446</p> <p>1 MR. SHKOLNIK: I thought we had</p> <p>2 this -- I thought we had this ruling already</p> <p>3 once.</p> <p>4 MS. MAINIGI: No, we didn't.</p> <p>5 MR. SHKOLNIK: We did. Let's go off</p> <p>6 the record, please.</p> <p>7 If you want to have a discussion,</p> <p>8 we'll do it off the record, not on my time.</p> <p>9 MS. MAINIGI: Fine. Let's go back</p> <p>10 on the record, and DOJ can make their --</p> <p>11 MR. SHKOLNIK: Off -- off video.</p> <p>12 MS. MAINIGI: No. We're -- we're on</p> <p>13 the record.</p> <p>14 MR. SHKOLNIK: No, no. I'm not --</p> <p>15 MS. MAINIGI: We're going to let DOJ</p> <p>16 answer the question.</p> <p>17 MR. SHKOLNIK: You're not going to</p> <p>18 have a discussion.</p> <p>19 MS. MAINIGI: I'm not having a</p> <p>20 discussion. You're right.</p> <p>21 So let's go back on the record,</p> <p>22 please.</p> <p>23 MR. BENNETT: So the answer is that</p> <p>24 the witness is not --</p> <p>25 MS. MAINIGI: Well, hang on. Let's</p>	<p style="text-align: right;">Page 448</p> <p>1 clear, this was brought up by counsel on --</p> <p>2 this issue was brought up by counsel on direct.</p> <p>3 BY MR. SHKOLNIK:</p> <p>4 Q. So my question -- just to help</p> <p>5 refresh your recollection very clear -- if</p> <p>6 AmerisourceBergen suspension order was issued</p> <p>7 in 2007 for violating the Controlled Substances</p> <p>8 Act and allowing diversion in 2007, would that</p> <p>9 have been after you had already told industry</p> <p>10 that they were not to ship if they had</p> <p>11 suspicious orders?</p> <p>12 MS. McCLURE: Objection. Form.</p> <p>13 Foundation misstates prior testimony.</p> <p>14 Speculative.</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 BY MR. SHKOLNIK:</p> <p>17 Q. It's a simple -- simple date.</p> <p>18 A. Yes, sir.</p> <p>19 Q. And if there was a immediate</p> <p>20 suspension order against Cardinal Health Auburn</p> <p>21 facility in November of 2007 for violating the</p> <p>22 Controlled Substances Act related to shipping</p> <p>23 without completing due diligence, would that</p> <p>24 have been after you had already told them that</p> <p>25 they were not allowed to do that?</p>

<p style="text-align: right;">Page 449</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 BY MR. SHKOLNIK:</p> <p>3 Q. When I say "you," I mean you at part</p> <p>4 of the presentations.</p> <p>5 MS. MAINIGI: Objection.</p> <p>6 THE WITNESS: Yes, sir.</p> <p>7 BY MR. SHKOLNIK:</p> <p>8 Q. And -- and that -- that was from</p> <p>9 your experience, correct, sir?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 THE WITNESS: Yes, sir.</p> <p>12 BY MR. SHKOLNIK:</p> <p>13 Q. And if, on December 7, 2007, an</p> <p>14 order to show cause and immediate suspension</p> <p>15 order was issued to Cardinal Health Lakeland</p> <p>16 facility for failure to -- to main [sic]</p> <p>17 effective controls against diversion of</p> <p>18 hydrocodone, that was after you had already</p> <p>19 told them, meaning you -- you and Mr. Mapes as</p> <p>20 part of the presentations to the big</p> <p>21 distributors, that -- that they shouldn't be</p> <p>22 shipping absent the due diligence, correct,</p> <p>23 sir?</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 THE WITNESS: Yes, sir.</p>	<p style="text-align: right;">Page 451</p> <p>1 BY MR. SHKOLNIK:</p> <p>2 Q. That would have meant they rejected</p> <p>3 the recommendations and the guidance given by</p> <p>4 DEA, correct?</p> <p>5 MS. MAINIGI: Objection.</p> <p>6 THE WITNESS: They weren't adhering</p> <p>7 to the recommendations.</p> <p>8 BY MR. SHKOLNIK:</p> <p>9 Q. If a DEA issued an order to show</p> <p>10 cause against Cardinal Health's Stafford, Texas</p> <p>11 distribution center on January 30th, 2008, for</p> <p>12 failure to maintain effective controls against</p> <p>13 diversion of hydrocodone, that was now three</p> <p>14 years after you already started telling the big</p> <p>15 three distributors, "You can't ship without due</p> <p>16 diligence," correct?</p> <p>17 MS. MAINIGI: Objection.</p> <p>18 THE WITNESS: Yes, sir.</p> <p>19 BY MR. SHKOLNIK:</p> <p>20 Q. And that would have meant they</p> <p>21 didn't follow the recommendations you and</p> <p>22 Mr. Mapes and the rest of the team were giving</p> <p>23 at these presentations.</p> <p>24 Fair statement?</p> <p>25 MS. MAINIGI: Objection.</p>
<p style="text-align: right;">Page 450</p> <p>1 BY MR. SHKOLNIK:</p> <p>2 Q. Even if it was a sea change in the</p> <p>3 field of distributors and manufacturers, this</p> <p>4 do-not-ship requirement, even assume that that</p> <p>5 was correct, they still did it after you told</p> <p>6 them, correct?</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 THE WITNESS: Yes, sir.</p> <p>9 BY MR. SHKOLNIK:</p> <p>10 Q. They apparently weren't taking the</p> <p>11 advice you were giving.</p> <p>12 Fair statement?</p> <p>13 MS. MAINIGI: Objection.</p> <p>14 THE WITNESS: Yes, sir.</p> <p>15 BY MR. SHKOLNIK:</p> <p>16 Q. If the DEA issued an order to show</p> <p>17 cause and an immediate suspension order against</p> <p>18 Cardinal Health's Swedesboro, New Jersey,</p> <p>19 distribution center for failure to maintain</p> <p>20 effective controls against diversion of</p> <p>21 Hydrocodone, December 7, 2007, that was after</p> <p>22 you had already told them, "You're not supposed</p> <p>23 to ship without doing due diligence," correct?</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 THE WITNESS: Yes, sir.</p>	<p style="text-align: right;">Page 452</p> <p>1 MR. BENNETT: And I am going to</p> <p>2 object to the extent that he's asking you about</p> <p>3 any specific investigation and interpretation</p> <p>4 of what they were or were not doing after your</p> <p>5 presentation.</p> <p>6 But to the extent it's in a public</p> <p>7 document or it's asking about timing, you may</p> <p>8 answer.</p> <p>9 BY MR. SHKOLNIK:</p> <p>10 Q. Just as to timing.</p> <p>11 A. Yes, sir.</p> <p>12 Q. And if -- if May 2008 McKesson</p> <p>13 agreed to a \$13 million civil penalty and</p> <p>14 entered into an administrative MOA with DEA for</p> <p>15 failure to maintain compliance program designed</p> <p>16 to detect and prevent diversion of controlled</p> <p>17 substances, inform DEA of suspicious orders in</p> <p>18 violation -- I'm sorry -- as required by 21 CFR</p> <p>19 1301.74, that was more than three years after</p> <p>20 you started telling the big three, "Do due</p> <p>21 diligence. Don't ship," correct?</p> <p>22 MR. EPPICH: Object to the form.</p> <p>23 BY MR. SHKOLNIK:</p> <p>24 Q. Just for the timing standpoint.</p> <p>25 MR. EPPICH: Object to the form.</p>



<p style="text-align: right;">Page 453</p> <p>1 Foundation.</p> <p>2 THE WITNESS: Yes, sir.</p> <p>3 BY MR. SHKOLNIK:</p> <p>4 Q. If in December 2016 Cardinal Health</p> <p>5 agreed to pay \$34 million as a civil penalty</p> <p>6 for failure to report suspicious orders and</p> <p>7 meet its obligations under CSA as it relates to</p> <p>8 shipping without doing due diligence, that was</p> <p>9 11 years after you first brought in the big</p> <p>10 three and told them what the rules are,</p> <p>11 correct?</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 THE WITNESS: Yes, sir.</p> <p>14 BY MR. SHKOLNIK:</p> <p>15 Q. In 2017, January 5th of 2017,</p> <p>16 McKesson entered into an administrative MOA</p> <p>17 with DEA pay -- to pay 150 million civil</p> <p>18 penalty for failure to identify and report</p> <p>19 suspicious orders in its facilities in</p> <p>20 Colorado, Illinois, New Jersey, Wisconsin,</p> <p>21 Florida, Maryland, Nebraska, Michigan,</p> <p>22 Massachusetts, California, Ohio and Cal --</p> <p>23 and -- and West Sacramento, California.</p> <p>24 That was now 12 years after you</p> <p>25 first sat them down and said, "You can't ship</p>	<p style="text-align: right;">Page 455</p> <p>1 (A lunch recess was taken.)</p> <p>2 THE VIDEOGRAPHER: We are going back</p> <p>3 on the record.</p> <p>4 This is the start of Media Unit No.</p> <p>5 4.</p> <p>6 The time is 2:31.</p> <p>7 You may proceed, Counsel.</p> <p>8 MR. BENNETT: For the record, while</p> <p>9 we took our lunch break, it's my understanding</p> <p>10 that there was an ex parte communication with</p> <p>11 the Special Master to discuss how long the</p> <p>12 lunch break was.</p> <p>13 That's the second time that this has</p> <p>14 happened during the deposition that there was a</p> <p>15 communication about the deposition without the</p> <p>16 government being present.</p> <p>17 I would object to that. And I would</p> <p>18 respectfully request that, any time the special</p> <p>19 master is contacted regarding a deposition</p> <p>20 involving the government witnesses, that the</p> <p>21 government be included in that conversation.</p> <p>22 MS. MAINIGI: I understand your</p> <p>23 position. Let me state for the record what</p> <p>24 happened.</p> <p>25 I reached out to David Cohen, who is</p>
<p style="text-align: right;">Page 454</p> <p>1 without doing due diligence."</p> <p>2 Fair statement?</p> <p>3 MR. EPPICH: Object to the form.</p> <p>4 THE WITNESS: Yes, sir.</p> <p>5 BY MR. SHKOLNIK:</p> <p>6 Q. And Walgreens, the chains pharmacy,</p> <p>7 they had had an immediate suspension order</p> <p>8 issued to them in 2011 and 2012 and agreed to</p> <p>9 an MOA and paid \$80 million in 2013.</p> <p>10 MR. STEPHENS: Object to form.</p> <p>11 BY MR. SHKOLNIK:</p> <p>12 Q. That would have been almost seven</p> <p>13 years after you first started telling industry,</p> <p>14 "You can't ship without doing due diligence,"</p> <p>15 correct?</p> <p>16 MR. STEPHENS: Object to form.</p> <p>17 THE WITNESS: Yes, sir.</p> <p>18 MR. SHKOLNIK: All right. I'm going</p> <p>19 to change topics.</p> <p>20 Can we just take a -- just a</p> <p>21 couple-minute break?</p> <p>22 THE VIDEOGRAPHER: We are going off</p> <p>23 the record.</p> <p>24 This is the end of Media Unit No. 3.</p> <p>25 The time is 1:08.</p>	<p style="text-align: right;">Page 456</p> <p>1 actually in D.C. here somewhere, for the</p> <p>2 purpose of setting up such a conference.</p> <p>3 Because it was clear that everyone was choosing</p> <p>4 to act unilaterally perhaps as to how much time</p> <p>5 the lunch break was actually going to be and</p> <p>6 that for whatever reason we would not reach</p> <p>7 agreement on that.</p> <p>8 I called him to set up a time</p> <p>9 quickly for us to speak.</p> <p>10 He said "What is the dispute about</p> <p>11 so that I know."</p> <p>12 I told him. I told him the</p> <p>13 government position. I told him the</p> <p>14 plaintiffs' position that it was 45 minutes,</p> <p>15 government position that there was a hard stop</p> <p>16 for the witness at 5:00; that it was -- and</p> <p>17 they only wanted 45 minutes.</p> <p>18 And I said, "Do you want me to</p> <p>19 gather the parties?"</p> <p>20 And he basically said, "I -- I don't</p> <p>21 have time for this. Hour and 15 minutes."</p> <p>22 So I understand your position</p> <p>23 that -- but it -- it was not intended to be</p> <p>24 some sort of ex parte conversation. I think he</p> <p>25 was trying to go ahead to whatever his other</p>

<p style="text-align: right;">Page 457</p> <p>1 issue was or -- I think he's here for AG</p> <p>2 meetings, if what I saw from his e-mail trails</p> <p>3 to the larger community last night, while at</p> <p>4 the same time be responsive to us while this</p> <p>5 deposition is going.</p> <p>6 MR. BENNETT: And again, whether</p> <p>7 it's a call to schedule a call or a call to</p> <p>8 talk substantively, we believe we should be</p> <p>9 involved in that conversation. Maybe it would</p> <p>10 be better to send an e-mail and copy all of us,</p> <p>11 if you're trying to set up a call.</p> <p>12 But either way about it, we want to</p> <p>13 be involved in any conversations with the</p> <p>14 special master regarding our witness</p> <p>15 depositions.</p> <p>16 MS. MAINIGI: Noted.</p> <p>17 MR. SHKOLNIK: And just so the</p> <p>18 record's clear, we were not involved as well.</p> <p>19 We were in the other room and were not</p> <p>20 contacted.</p> <p>21 Ready to start?</p> <p>22 MS. MAINIGI: Yes.</p> <p>23 MR. TAYMAN: Okay. Hunter, can I</p> <p>24 just say on the record -- I just want to put on</p> <p>25 record what we talked about before we went on</p>	<p style="text-align: right;">Page 459</p> <p>1 starting now.</p> <p>2 (Deposition Exhibit 41 was marked</p> <p>3 for identification.)</p> <p>4 BY MR. SHKOLNIK:</p> <p>5 Q. Mr. Wright, I'm going to hand you a</p> <p>6 document I've marked as Exhibit 41. The</p> <p>7 document is TEVA_MDL 034408. And it's -- the</p> <p>8 title is "Inventory Data License Agreement."</p> <p>9 Mr. Wright, I'm going to hand you</p> <p>10 a -- a -- a -- this document, and I'm going to</p> <p>11 ask you a few questions about it.</p> <p>12 This is a document that was produced</p> <p>13 us to by Teva. And it's entitled "Inventory</p> <p>14 Data License Made Between and entered on July</p> <p>15 1, 2001, by and between Walgreen on behalf of</p> <p>16 itself" as -- "and Cephalon, Inc."</p> <p>17 Are you -- you're aware, are you</p> <p>18 not, that Walgreen and Cephalon are both</p> <p>19 registrants, are you not?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Were you ever aware, while you were</p> <p>22 at DEA, that there were written agreements</p> <p>23 between Cephalon and Walgreens to provide</p> <p>24 inventory data electronically from Walgreens to</p> <p>25 the manufacturer Cephalon regarding its</p>
<p style="text-align: right;">Page 458</p> <p>1 the record, that we have a hard stop at 5:00.</p> <p>2 And we're not able to continue to tomorrow.</p> <p>3 And once the plaintiff -- the</p> <p>4 plaintiffs and the defendants coordinate an</p> <p>5 figure out what they need, once we see where we</p> <p>6 are today, Mr. Wright will reasonably</p> <p>7 participate in -- in -- in rescheduling</p> <p>8 whatever time remains at that point.</p> <p>9 MS. MAINIGI: And thank you for</p> <p>10 that.</p> <p>11 I'll just note for the record that,</p> <p>12 until we came back from lunch, it was not known</p> <p>13 to us that Mr. Wright did, in fact, have a hard</p> <p>14 stop at 5:00. We heard different things</p> <p>15 communicated over the lunch break.</p> <p>16 But I do wish, in retrospect, we had</p> <p>17 been aware at the morning time or last week</p> <p>18 that Mr. Wright had a hard top at 5:00 so we</p> <p>19 could have began the day -- begun the day at</p> <p>20 8:00, for example, instead of 9:00 or</p> <p>21 something.</p> <p>22 But we understand. And -- and we</p> <p>23 will collectively figure out how to work around</p> <p>24 that.</p> <p>25 MR. SHKOLNIK: Okay. My time is</p>	<p style="text-align: right;">Page 460</p> <p>1 products?</p> <p>2 MR. BENNETT: I remind the witness</p> <p>3 not to discuss any specific investigations. So</p> <p>4 if this -- if you're aware unrelated to a</p> <p>5 specific investigation, you can answer.</p> <p>6 THE WITNESS: No, sir.</p> <p>7 BY MR. SHKOLNIK:</p> <p>8 Q. If we read under the first</p> <p>9 paragraph -- I'm sorry -- the second paragraph,</p> <p>10 it says "Whereas, Cephalon desires a license</p> <p>11 from Walgreen, certain inventory data, as</p> <p>12 further described herein, the data relating to</p> <p>13 Cephalon products and Walgreens' desire to</p> <p>14 license such data to Cephalon on terms and</p> <p>15 conditions herein."</p> <p>16 And I'm going to jump down to</p> <p>17 Paragraph 1.2, where it says a description of</p> <p>18 the data: "All data supplied to Cephalon shall</p> <p>19 be in electronic format and contain the</p> <p>20 elements described in Exhibit B attached hereto</p> <p>21 or made a part hereof. Walgreen shall supply</p> <p>22 data as frequently as set forth in Exhibit B,</p> <p>23 and in any event, Walgreen shall supply the</p> <p>24 data no later than five business days following</p> <p>25 the end of the applicable period, provided that</p>

<p style="text-align: right;">Page 461</p> <p>1 Walgreen has received the license fee from 2 Cephalon as provided herein." 3 Were you aware of inventory data 4 being exchanged within five days between 5 Walgreens Distribution and Pharmacies and 6 Cephalon? 7 MS. MAINIGI: Objection. 8 MR. STEPHENS: Objection. 9 THE WITNESS: No, sir. 10 BY MR. SHKOLNIK: 11 Q. During -- at any point in time 12 during the -- those years that you were in 13 Washington, D.C., and doing those presentations 14 regarding Suspicious Order, Monitoring did 15 anyone ever tell you that Cephalon was 16 providing -- I'm sorry -- Walgreens was 17 providing store- and distributor-level data 18 directly up to Cephalon regarding its opioid 19 products? 20 A. I've -- 21 MS. MAINIGI: Objection. 22 THE WITNESS: I have no 23 recollection. 24 BY MR. SHKOLNIK: 25 Q. Would you -- from -- from your</p>	<p style="text-align: right;">Page 463</p> <p>1 MS. McCLURE: Objection. 2 THE WITNESS: Yes, sir. 3 BY MR. SHKOLNIK: 4 Q. And -- and you didn't know that they 5 were -- that there was actually sales agree -- 6 I mean there were agreements where the pharmacy 7 would sell that data right up to the 8 manufacturer so they could have it in their 9 possession. 10 Fair statement? 11 MS. MAINIGI: Objection. 12 THE WITNESS: Yes, sir. 13 BY MR. SHKOLNIK: 14 Q. And -- and, in fact, we've such 15 information as EDI 852 transactions. 16 Do you know what EDI 852s are? 17 A. It's -- EDI is the format -- 18 electronic format that it is transmitted under. 19 And it's the character strings take -- you 20 know, certain elements go in a certain block. 21 Q. And -- and were you aware that -- 22 that, in this industry, that EDI data was 23 available? 24 MS. MAINIGI: Objection. 25 THE WITNESS: No, sir.</p>
<p style="text-align: right;">Page 462</p> <p>1 understanding, would -- would it have been 2 helpful to -- would it have been helpful to you 3 doing your job if you had been provided 4 information that a manufacturer such as 5 Cephalon was actually getting the -- the sales 6 data from the pharmacy through the distributor 7 up to the -- I'm sorry. Withdraw that. 8 Would it have been helpful to you, 9 back when you were working at DEA, to have the 10 information that the manufacturers were 11 actually purchasing the sales data from the 12 pharmacies directly? 13 MS. MAINIGI: Objection. 14 THE WITNESS: It would have been 15 insightful. 16 BY MR. SHKOLNIK: 17 Q. Early -- on Thursday you were asked 18 by counsel for the manufacturers questions 19 about visibility. 20 And -- and I think you gave your 21 answers as best as you could from your 22 recollection about either your knowledge or 23 lack of knowledge of visibility between 24 manufacturers and pharmacies, correct? 25 MS. MAINIGI: Objection.</p>	<p style="text-align: right;">Page 464</p> <p>1 BY MR. SHKOLNIK: 2 Q. Here we -- we -- we show that 3 "Walgreens shall provide" the vendor -- 4 "Walgreens shall provide vendor with EDI 852 5 transactions for all products with summary 6 transmitted to vendor on a weekly basis in a 7 manner mutually agreed upon. Each transmission 8 will include information set forth below." 9 And it says: "on hand," "on order," 10 "quantity withdrawn," "lost billing," and 11 "receipts." 12 You weren't aware that Walgreens was 13 actually selling that up to the manufacturer 14 Cephalon, correct? 15 MS. MAINIGI: Objection. 16 THE WITNESS: No, sir. 17 BY MR. SHKOLNIK: 18 Q. Would that be an example of -- using 19 the terminology that was used on Thursday -- 20 visibility? 21 MS. MAINIGI: Objection. 22 MR. EPPICH: Objection. 23 THE WITNESS: Yes, sir. 24 BY MR. SHKOLNIK: 25 Q. And then it goes and says:</p>

<p style="text-align: right;">Page 465</p> <p>1 "Walgreens was providing the vendor EDI 867</p> <p>2 transactions for all products which included</p> <p>3 the information set forth below transmitted on</p> <p>4 a weekly basis and its distributor stock sales</p> <p>5 and who it was shipped to."</p> <p>6 And it says: "Each data point</p> <p>7 included will provide at the level of each</p> <p>8 Walgreens distribution center and by product</p> <p>9 NDC."</p> <p>10 So if I'm reading that correctly,</p> <p>11 Walgreens is selling the data of its sales to</p> <p>12 its stores right up to the manufacturers here,</p> <p>13 according to this agreement, correct?</p> <p>14 MR. STEPHENS: Object to form.</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 THE WITNESS: It appears so.</p> <p>17 BY MR. SHKOLNIK:</p> <p>18 Q. "Provide vendor store direct" --</p> <p>19 "vendor store direct purchase data from</p> <p>20 wholesale on a weekly basis."</p> <p>21 It's also suggesting that it's</p> <p>22 providing on a weekly basis its wholesale</p> <p>23 numbers directly to the manufacturer, correct?</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 THE WITNESS: Yes, sir.</p>	<p style="text-align: right;">Page 467</p> <p>1 Q. But Actiq was one of the C2s, was it</p> <p>2 not?</p> <p>3 A. I --</p> <p>4 MS. MAINIGI: Objection.</p> <p>5 THE WITNESS: -- don't recall, sir.</p> <p>6 MR. SHKOLNIK: Now, I'm going to --</p> <p>7 I'm going to mark as Exhibit 42 another</p> <p>8 inventory license.</p> <p>9 (Deposition Exhibit 42 was marked</p> <p>10 for identification.)</p> <p>11 BY MR. SHKOLNIK:</p> <p>12 Q. This is an inventory license. It --</p> <p>13 unfortunately, we weren't provided the signed</p> <p>14 ones. But just want to ask some questions</p> <p>15 about this document.</p> <p>16 It's from 2012. "Walgreen and</p> <p>17 Purdue Pharma Inventory Data License."</p> <p>18 And again, this is a document, if</p> <p>19 we're reading at 1. -- 1.2: "All data supplied</p> <p>20 to vendors shall be in electronic format and</p> <p>21 contain the elements described in Exhibit B</p> <p>22 attached hereto and made part hereof.</p> <p>23 Walgreens shall use commercially reasonable</p> <p>24 efforts to supply the data no" longer -- "no</p> <p>25 later than five days following the end of each</p>
<p style="text-align: right;">Page 466</p> <p>1 BY MR. SHKOLNIK:</p> <p>2 Q. Once again, that's an example of</p> <p>3 visibility between a manufacturer and a -- a</p> <p>4 wholesale chain distributor and pharmacy, is it</p> <p>5 not, sir?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 THE WITNESS: Yes, sir.</p> <p>8 BY MR. SHKOLNIK:</p> <p>9 Q. If we can go back one page, they</p> <p>10 give an example of the products that they were</p> <p>11 reporting on from Walgreens up to the</p> <p>12 manufacturer. It says "Actiq."</p> <p>13 That's a -- an opioid, is it not,</p> <p>14 sir?</p> <p>15 MS. MAINIGI: Objection.</p> <p>16 THE WITNESS: Yes, sir.</p> <p>17 BY MR. SHKOLNIK:</p> <p>18 Q. Fentora?</p> <p>19 Are -- are any of these other -- are</p> <p>20 -- are these controlled substances, to your</p> <p>21 knowledge, that we have a list of here?</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 THE WITNESS: I'm not familiar with</p> <p>24 the -- the rest of these, no.</p> <p>25 BY MR. SHKOLNIK:</p>	<p style="text-align: right;">Page 468</p> <p>1 calendar week."</p> <p>2 And then I'm going to jump to the</p> <p>3 attachment.</p> <p>4 MS. McCLURE: Is that a question?</p> <p>5 MR. SHKOLNIK: No. I'll get there.</p> <p>6 And I'm going to keep reading.</p> <p>7 MS. McCLURE: Object to the</p> <p>8 commentary on the record with a -- not a</p> <p>9 question.</p> <p>10 MR. SHKOLNIK: Thank you.</p> <p>11 Can I finish my question?</p> <p>12 MS. McCLURE: If there is one.</p> <p>13 MR. SHKOLNIK: I'll get to it, if</p> <p>14 you -- if you don't mind.</p> <p>15 BY MR. SHKOLNIK:</p> <p>16 Q. And this is the list of products</p> <p>17 that's referred to in the Exhibit B in the</p> <p>18 paragraph I was just reading before I was</p> <p>19 interrupted.</p> <p>20 Dilaudid and OxyContin, those are</p> <p>21 Schedule II products, are they not?</p> <p>22 MS. MAINIGI: Objection.</p> <p>23 MS. McCLURE: Objection.</p> <p>24 MR. SHKOLNIK: Let me restate the</p> <p>25 question. I'm sorry.</p>

<p style="text-align: right;">Page 469</p> <p>1 BY MR. SHKOLNIK:</p> <p>2 Q. Those are controlled substances, are</p> <p>3 they not?</p> <p>4 MS. MAINIGI: Objection.</p> <p>5 MS. McCLURE: Objection.</p> <p>6 THE WITNESS: Yes, sir.</p> <p>7 BY MR. SHKOLNIK:</p> <p>8 Q. And OxyContin is a product that is</p> <p>9 manufactured by Purdue, is it not?</p> <p>10 MS. MAINIGI: Objection.</p> <p>11 THE WITNESS: Yes, sir.</p> <p>12 BY MR. SHKOLNIK:</p> <p>13 Q. If this was a contract that was</p> <p>14 entered into between Walgreens and Purdue, this</p> <p>15 would be an example of Purdue getting data</p> <p>16 directly from the pharmacy right up to the</p> <p>17 company for visibility purposes, would it not?</p> <p>18 MS. MAINIGI: Objection.</p> <p>19 MS. McCLURE: Same objection.</p> <p>20 MR. STEPHENS: Object to form.</p> <p>21 THE WITNESS: Yes, sir.</p> <p>22 BY MR. SHKOLNIK:</p> <p>23 Q. And under Exhibit B format, it</p> <p>24 suggests that datasets are inventory available,</p> <p>25 demand quantity, quantity on order, quantity</p>	<p style="text-align: right;">Page 471</p> <p>1 manufacturer, Purdue, pursuant to a license</p> <p>2 with the pharmacy Walgreens, correct?</p> <p>3 MS. MAINIGI: Objection.</p> <p>4 MS. McCLURE: Objection.</p> <p>5 THE WITNESS: Yes, sir.</p> <p>6 MR. SHKOLNIK: I'm going to show you</p> <p>7 Exhibit No. 43.</p> <p>8 I apologize again. This is another</p> <p>9 unsigned contract that neither Walgreen or</p> <p>10 Purdue provided us. But it appears to be the</p> <p>11 amendment of the last contract.</p> <p>12 (Deposition Exhibit 43 was marked</p> <p>13 for identification.)</p> <p>14 BY MR. SHKOLNIK:</p> <p>15 Q. This document, if I'm reading it</p> <p>16 correctly, says: "First Amendment Inventory</p> <p>17 Data License Agreement." And the data of this</p> <p>18 is March 2015 between Walgreen and Purdue. And</p> <p>19 it's now including a new product that they</p> <p>20 would be providing data on. And it says</p> <p>21 Hysingla.</p> <p>22 Are you familiar with Hysingla?</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 THE WITNESS: No, sir. I'm not.</p> <p>25 BY MR. SHKOLNIK:</p>
<p style="text-align: right;">Page 470</p> <p>1 sold.</p> <p>2 If that type of information was</p> <p>3 provided by Walgreen up to the manufacturer,</p> <p>4 Purdue on those Schedule II products,</p> <p>5 OxyContin, that would be a way of having</p> <p>6 visibility down to the store level by</p> <p>7 Walgreens, would it not?</p> <p>8 MS. MAINIGI: Objection.</p> <p>9 MS. McCLURE: Objection.</p> <p>10 THE WITNESS: It appears so. Yes,</p> <p>11 sir.</p> <p>12 BY MR. SHKOLNIK:</p> <p>13 Q. And then on Dataset 2, it would also</p> <p>14 include retail sales quantity.</p> <p>15 So that would be evidence of data at</p> <p>16 the store level going all the way up to the</p> <p>17 manufacturer on the movement of OxyContin,</p> <p>18 correct?</p> <p>19 MS. MAINIGI: Objection.</p> <p>20 MS. McCLURE: Objection.</p> <p>21 THE WITNESS: Yes, sir.</p> <p>22 BY MR. SHKOLNIK:</p> <p>23 Q. That would be what would one -- one</p> <p>24 might call visibility of the sales of OxyContin</p> <p>25 at the store level right up to the</p>	<p style="text-align: right;">Page 472</p> <p>1 Q. Are you familiar with something -- a</p> <p>2 data source called IMS or IMS Health?</p> <p>3 A. Yes, sir.</p> <p>4 Q. What's your understanding of IMS</p> <p>5 Health or IMS?</p> <p>6 MS. MAINIGI: Objection.</p> <p>7 BY MR. SHKOLNIK:</p> <p>8 Q. In terms of data.</p> <p>9 MS. MAINIGI: Objection.</p> <p>10 THE WITNESS: It's a data aggregate</p> <p>11 company that provides high-level and low-level</p> <p>12 or granular transaction information.</p> <p>13 And we had -- DEA had high-level</p> <p>14 data output, in other words, how much a certain</p> <p>15 product was moving, but nothing specific as to</p> <p>16 who or what.</p> <p>17 BY MR. SHKOLNIK:</p> <p>18 Q. Did you know that the pharma -- that</p> <p>19 -- that the pharmacy chains and the</p> <p>20 distributors could purchase the -- the -- the</p> <p>21 data regarding the movement of prescriptions</p> <p>22 right down to the store level --</p> <p>23 MS. MAINIGI: Objection.</p> <p>24 BY MR. SHKOLNIK:</p> <p>25 Q. -- from IMS?</p>



<p style="text-align: right;">Page 473</p> <p>1 MS. MAINIGI: Objection.</p> <p>2 MS. McCCLURE: Objection.</p> <p>3 THE WITNESS: I don't know if they</p> <p>4 could or not, no.</p> <p>5 MR. SHKOLNIK: I'm going to hand you</p> <p>6 what I'm marking as Exhibit No. 44, was that, I</p> <p>7 think.</p> <p>8 (Deposition Exhibit 44 was marked</p> <p>9 for identification.)</p> <p>10 MR. SHKOLNIK: Once again, this is</p> <p>11 another unsigned contract provided to us by</p> <p>12 Purdue. And this -- this is an unsigned</p> <p>13 agreement between Purdue and Walgreen for</p> <p>14 access to IMF -- IMS Health data sharing.</p> <p>15 BY MR. SHKOLNIK:</p> <p>16 Q. And I would like to turn your</p> <p>17 attention to the Bates No. 791. And if we</p> <p>18 could go to the section entitled "AMA/AOA</p> <p>19 Third-Party Data" where -- where it says: "The</p> <p>20 AMA/AOA data, any fields of information</p> <p>21 specific to identifiable physician, where</p> <p>22 identified by name or other identifier,</p> <p>23 collectively, shall be treated by IMS and</p> <p>24 Walgreens as derived from American Medical</p> <p>25 Association, physician professional data."</p>	<p style="text-align: right;">Page 475</p> <p>1 Were you aware that IMS could</p> <p>2 provide the physician prescribing level data as</p> <p>3 it flowed through the pharmacies by way of the</p> <p>4 IMS database?</p> <p>5 Were you aware of that?</p> <p>6 A. Yes, sir.</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 MS. McCCLURE: Objection.</p> <p>9 BY MR. SHKOLNIK:</p> <p>10 Q. Did you know that the manufacturers</p> <p>11 were purchasing that data and having that?</p> <p>12 MS. MAINIGI: Objection.</p> <p>13 MS. McCCLURE: Objection.</p> <p>14 THE WITNESS: No, sir.</p> <p>15 BY MR. SHKOLNIK:</p> <p>16 Q. Would that be an -- if they had that</p> <p>17 data, would that be another example of</p> <p>18 visibility between manufacturer through</p> <p>19 distribution right down to the store level and,</p> <p>20 in fact, down to the prescription level?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 MS. McCCLURE: Objection.</p> <p>23 THE WITNESS: Yes, sir.</p> <p>24 BY MR. SHKOLNIK:</p> <p>25 Q. Would that help, sir -- based on</p>
<p style="text-align: right;">Page 474</p> <p>1 Were you aware that -- that the</p> <p>2 manufacturer Purdue was purchasing directly</p> <p>3 from chain pharmacies the actual information</p> <p>4 regarding the prescriptions of the individual</p> <p>5 physicians --</p> <p>6 MR. EPPICH: Object to form.</p> <p>7 BY MR. SHKOLNIK:</p> <p>8 Q. -- at the store level?</p> <p>9 MS. McCCLURE: Same objection.</p> <p>10 MR. EPPICH: And object to the</p> <p>11 characterization of the document.</p> <p>12 THE WITNESS: No, sir.</p> <p>13 BY MR. SHKOLNIK:</p> <p>14 Q. Did you know that IMS could provide</p> <p>15 physician-level data flowing through the</p> <p>16 pharmacies?</p> <p>17 MS. MAINIGI: Objection.</p> <p>18 BY MR. SHKOLNIK:</p> <p>19 Q. Through IMS?</p> <p>20 Did you know that?</p> <p>21 MS. MAINIGI: Objection.</p> <p>22 THE WITNESS: I got lost in the</p> <p>23 question.</p> <p>24 BY MR. SHKOLNIK:</p> <p>25 Q. Sure.</p>	<p style="text-align: right;">Page 476</p> <p>1 your understanding of the way things were,</p> <p>2 would that help in getting the manufacturers,</p> <p>3 the distributors, as well as the pharmacies to</p> <p>4 do adequate due diligence regarding suspicious</p> <p>5 orders if they had all that data available to</p> <p>6 them?</p> <p>7 MS. MAINIGI: Objection.</p> <p>8 MR. EPPICH: Object to form.</p> <p>9 THE WITNESS: Yes, sir.</p> <p>10 BY MR. SHKOLNIK:</p> <p>11 Q. If they had used that data for that</p> <p>12 purpose, correct, sir?</p> <p>13 MR. EPPICH: Object to form.</p> <p>14 MS. MAINIGI: Objection.</p> <p>15 THE WITNESS: Yes, sir.</p> <p>16 BY MR. SHKOLNIK:</p> <p>17 Q. To your knowledge, when you were</p> <p>18 doing your -- your work at DEA, did any -- any</p> <p>19 of the registrants you work with ever tell you</p> <p>20 they were using all that data together to help</p> <p>21 comply with their Suspicious Order Monitoring</p> <p>22 obligations under the Act?</p> <p>23 MR. EPPICH: Object to form.</p> <p>24 MS. MAINIGI: Objection.</p> <p>25 MR. BENNETT: Objection.</p>

<p style="text-align: right;">Page 477</p> <p>1 You may not talk about any specific</p> <p>2 investigations or interviews that you had.</p> <p>3 But you can answer it generally if</p> <p>4 it's outside of a specific investigation.</p> <p>5 THE WITNESS: And the question was?</p> <p>6 MR. SHKOLNIK: Could you read that</p> <p>7 question back, please. I'll never get it --</p> <p>8 get it a second time.</p> <p>9 (The record was read as requested.)</p> <p>10 THE WITNESS: No, sir.</p> <p>11 MS. MAINIGI: May I ask the</p> <p>12 videographer how much time is left before we</p> <p>13 reach 3:30?</p> <p>14 THE VIDEOGRAPHER: You've got run</p> <p>15 time of 3:32:30 so far.</p> <p>16 MS. MAINIGI: Okay. I think we're</p> <p>17 done.</p> <p>18 Go off the record, please.</p> <p>19 MR. SHKOLNIK: No. Wait -- wait a</p> <p>20 second. We had -- wasn't there -- there was a.</p> <p>21 THE VIDEOGRAPHER: Well, that -- you</p> <p>22 -- I mean you guys have to work that out --</p> <p>23 MR. SHKOLNIK: You -- you -- you</p> <p>24 guys were having a discussion.</p> <p>25 MS. MAINIGI: We're at 3:32. I</p>	<p style="text-align: right;">Page 479</p> <p>1 whether you two had ever met.</p> <p>2 Do you recall him asking you that</p> <p>3 question?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And you told him you have</p> <p>6 never met him before, correct?</p> <p>7 A. Maybe I'll no recollection.</p> <p>8 Q. Okay. Now, Mr. Migliori, have you</p> <p>9 met Mr. Migliori before?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. And on how many occasions have you</p> <p>12 met Mr. Migliori?</p> <p>13 MR. MIGLIORI: I'm going to object</p> <p>14 on the scope. On this question I will not tell</p> <p>15 him not to answer. But I'm going to -- I'm</p> <p>16 warning that this is getting into the ruling</p> <p>17 that was already issued.</p> <p>18 MS. MAINIGI: I think the door was</p> <p>19 opened so -- by Mr. Shkolnik.</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. How many times have you met with</p> <p>22 Mr. Migliori?</p> <p>23 A. One time, to the best of my</p> <p>24 recollection.</p> <p>25 Q. You've only met Mr. Migliori one</p>
<p style="text-align: right;">Page 478</p> <p>1 don't think our discussion was longer than two</p> <p>2 minutes.</p> <p>3 MR. SHKOLNIK: Oh, actually timed it</p> <p>4 over here.</p> <p>5 MS. MAINIGI: Let's go off the</p> <p>6 record, please.</p> <p>7 THE VIDEOGRAPHER: We are going off</p> <p>8 the record.</p> <p>9 The time is 2:53.</p> <p>10 (A short recess was taken.)</p> <p>11 THE VIDEOGRAPHER: We are going back</p> <p>12 on the record.</p> <p>13 The time is 3:07.</p> <p>14 You may proceed, Counsel.</p> <p>15 FURTHER EXAMINATION BY COUNSEL FOR</p> <p>16 CARDINAL HEALTH, INC.</p> <p>17 BY MS. MAINIGI:</p> <p>18 Q. Good afternoon, Mr. Wright.</p> <p>19 You just were questioned by Mr.</p> <p>20 Hunter Shkolnik.</p> <p>21 Do you remember that?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. And one of the questions Mr.</p> <p>24 Shkolnik asked you at the beginning of his</p> <p>25 testimony -- or his questioning of you was</p>	<p style="text-align: right;">Page 480</p> <p>1 time.</p> <p>2 That's your testimony under oath?</p> <p>3 A. Except for the days here.</p> <p>4 Q. Okay. And other individuals from</p> <p>5 Motley Rice, have you met with them?</p> <p>6 A. No, ma'am.</p> <p>7 Q. The only --</p> <p>8 A. Now --</p> <p>9 Q. I'm sorry. Go ahead. Go ahead.</p> <p>10 A. I've had a couple of telephone --</p> <p>11 I've had some telephone conferences. But I've</p> <p>12 not physically met with anyone from Motley Rice</p> <p>13 except for him.</p> <p>14 Q. Okay. Thank you for completing</p> <p>15 that.</p> <p>16 In terms of -- well, the meeting</p> <p>17 with Mr. Migliori, when was, that</p> <p>18 approximately, what month; do you remember?</p> <p>19 A. It was late last year.</p> <p>20 Q. Was he the first person from Motley</p> <p>21 Rice that you spoke with?</p> <p>22 MR. TAYMAN: Objection.</p> <p>23 MR. BENNETT: Objection.</p> <p>24 MR. TAYMAN: Privileged and</p> <p>25 confidential.</p>

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1 I'm going to direct you not the  
2 answer.  
3 We don't control the privilege.  
4 MS. MAINIGI: I know that. I don't  
5 know why that would be privileged and  
6 confidential. But I can't -- I can't change  
7 how you're directing him not to answer the  
8 question.  
9 BY MS. MAINIGI:  
10 Q. Who else from -- you mentioned  
11 telephone calls with Motley Rice.  
12 Were those with Mr. Migliori?  
13 A. He had occasion to be in -- in some  
14 of those but not all.  
15 Q. How many phone calls, approximately,  
16 have you had with Motley Rice?  
17 A. Four.  
18 Q. And approximately how long did each  
19 last?  
20 A. None of them lasted more than an  
21 hour.  
22 Q. And those --  
23 A. The last two were only half an hour.  
24 Q. Were all of those calls -- and I  
25 don't know -- want to know the details, but

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1 were all of those calls related to your  
2 consulting arrangement with Motley Rice?  
3 MR. TAYMAN: Objection to the extent  
4 it calls for the content of the call.  
5 But otherwise You can answer.  
6 THE WITNESS: Yes.  
7 BY MS. MAINIGI:  
8 Q. Who else from Motley Rice was on  
9 those telephone calls?  
10 MR. MIGLIORI: Objection.  
11 MR. TAYMAN: Objection.  
12 MR. MIGLIORI: Don't answer.  
13 MR. TAYMAN: Direct you not to  
14 answer.  
15 MS. MAINIGI: Why is that  
16 privileged?  
17 MR. MIGLIORI: It's the privilege  
18 under the rule for --  
19 MS. MAINIGI: But --  
20 MR. MIGLIORI: -- for consultancy  
21 experts. You happened to learn by happenstance  
22 of the existence of it. I gave you latitude  
23 about how little it was. But content on the  
24 and who he spoke with a far beyond the rule.  
25 MS. MAINIGI: So he's able to

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1 identify you from Motley Rice as someone he has  
2 met with for the purpose of consulting, but he  
3 can't -- I'd -- you're -- you're --  
4 MR. MIGLIORI: Yes. You're right.  
5 MS. MAINIGI: -- forbidding him,  
6 Mr. Migliori, from identifying anyone else from  
7 Motley Rice?  
8 MR. MIGLIORI: That's correct.  
9 MS. MAINIGI: Okay. Well, I guess  
10 we'll take that up with the Special Master  
11 Cohen.  
12 BY MS. MAINIGI:  
13 Q. Did you meet with Ms. Singer from  
14 Motley Rice?  
15 MR. MIGLIORI: Do not answer.  
16 MR. TAYMAN: Objection. Privileged.  
17 Confidential.  
18 Direct you not to answer.  
19 BY MS. MAINIGI:  
20 Q. Did you meet to Ms. Singer by  
21 telephone?  
22 MR. MIGLIORI: Same objection.  
23 MR. TAYMAN: Objection.  
24 BY MS. MAINIGI:  
25 Q. Your in-person meeting with

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1 Mr. Migliori that took place late last year,  
2 how long did that meeting last?  
3 MR. MIGLIORI: Objection.  
4 Do not answer.  
5 We're -- we're done with that.  
6 That's going to be my running objection.  
7 MS. MAINIGI: Okay. We'll -- we'll  
8 figure out if on the next break we go ahead and  
9 stop and call David Cohen.  
10 BY MS. MAINIGI:  
11 Q. So you were retained, as you  
12 testified before, by Mr. Migliori and Motley  
13 Rice to represent or consult for Summit County,  
14 correct?  
15 MR. MIGLIORI: Objection.  
16 Don't answer.  
17 MR. TAYMAN: Objection.  
18 MS. MAINIGI: He's already answered  
19 that.  
20 MR. MIGLIORI: No. First of all,  
21 it's been asked and answered. It's beyond the  
22 spoke. I don't know how Hunter opened the door  
23 for it. But it's beyond the scope of this type  
24 of questioning.  
25 MS. MAINIGI: Well, actually.

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1 MR. MIGLIORI: And we can have David  
2 resolve the issue. But David's already let you  
3 go as far as you can go.  
4 MS. MAINIGI: I don't think so.  
5 Because Mr. Shkolnik opened the door to this.  
6 MR. SHKOLNIK: I didn't open any  
7 door.  
8 MR. MIGLIORI: He can't open a door  
9 for my relationship.  
10 MS. MAINIGI: Okay. Well, the -- I  
11 disagree. But we'll keep on going, and then  
12 we'll come back.  
13 MR. MIGLIORI: And you can use all  
14 of your time doing that, but --  
15 BY MS. MAINIGI:  
16 Q. Did you meet with -- between last  
17 week's testimony that you provided under oath  
18 and today's testimony that you are providing  
19 under oath, did you meet with your attorney?  
20 MR. TAYMAN: Objection to the extent  
21 that -- don't --  
22 BY MS. MAINIGI:  
23 Q. "Yes" or "no"?  
24 MR. TAYMAN: You can't tell her the  
25 content of any meeting. But you can tell her

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1 about the existence of a meeting.  
2 THE WITNESS: I'm sorry. Could you  
3 repeat your question for me, please.  
4 BY MS. MAINIGI:  
5 Q. Sure.  
6 Do you remember testifying last  
7 Thursday here in this room?  
8 A. Okay. Thank you.  
9 Yes, ma'am.  
10 Q. Okay. And then your back, of  
11 course, today.  
12 Between then and now, did you meet  
13 with your attorney?  
14 I don't need to know what you talk  
15 about; I just -- "yes" or "no," did you meet  
16 with your attorney?  
17 A. No, ma'am.  
18 Q. Okay. Did you speak to your  
19 attorney by telephone between last Thursday and  
20 today?  
21 A. Yes, ma'am.  
22 Q. Okay. How long did you speak to  
23 your attorney for, sir?  
24 A. Five minutes.  
25 Q. Five minutes between last Thursday

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1 and today?  
2 A. Yes, ma'am.  
3 Q. Okay. Did you speak to anyone else  
4 about this matter between last Thursday and  
5 today?  
6 A. No, ma'am.  
7 Q. Okay. You testified that the  
8 Excessive Purchase System had been in place  
9 since at least 1995 when you joined the DEA,  
10 correct?  
11 A. Excessive?  
12 Q. Yes.  
13 A. Yes, ma'am.  
14 Q. Okay. And the Excessive Purchase  
15 Reports were the accepted practice for many  
16 years, correct?  
17 A. Yes, ma'am.  
18 Q. And these reports were blessed by  
19 DEA headquarters and field offices, correct?  
20 MR. BENNETT: Objection.  
21 You can answer.  
22 THE WITNESS: To my understanding.  
23 Because that's all I was provided, ma'am.  
24 BY MS. MAINIGI:  
25 Q. Well, you understood, when you were

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1 at the DEA field office, that it was the  
2 practice for registrants to send in Excessive  
3 Purchase Reports, correct?  
4 A. That's all I ever saw. That's all I  
5 ever got on my desk. I saw no other variation  
6 of that.  
7 Q. Did you ever ask anybody, when you  
8 were in the field office, whether there were  
9 other variations?  
10 A. No, ma'am.  
11 Q. Okay. And when you got to  
12 headquarters, you were aware that the practice  
13 was to -- for registrants to send in Excessive  
14 Purchase Reports, correct?  
15 A. Yes, ma'am.  
16 Q. And, in fact, the DEA told  
17 registrants during inspections that your system  
18 is working, correct?  
19 MR. BENNETT: Objection.  
20 THE WITNESS: I do not know what  
21 other investigators were -- were telling or  
22 whatever, approving.  
23 I know that these were accepted  
24 reports. They were received by many field  
25 office nationwide. Got that through training.

<p style="text-align: right;">Page 489</p> <p>1 When we got together, we'd talk about work and</p> <p>2 things like this, so --</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. And prior for 2005, you personally,</p> <p>5 in your experience, never told any registrant</p> <p>6 that there was anything improper or illegal</p> <p>7 about the practice of submitting excesses --</p> <p>8 Excessive Purchase Reports, correct?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. And to the best of your knowledge,</p> <p>11 in your experience, nobody at DEA told any</p> <p>12 registrant there was anything improper or</p> <p>13 illegal about the practice of submitting</p> <p>14 Excessive Purchase Reports, correct?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. A colleague pointed out to me that</p> <p>17 your very polite response may -- it may not be</p> <p>18 totally clear.</p> <p>19 When you say "yes, ma'am" -- when</p> <p>20 you say "yes, ma'am" --</p> <p>21 A. You don't want me to be polite?</p> <p>22 Q. I do want you to be polite.</p> <p>23 When you say "yes, ma'am," that</p> <p>24 means you're agreeing with my statement; is</p> <p>25 that right?</p>	<p style="text-align: right;">Page 491</p> <p>1 Q. So you weren't person making</p> <p>2 decisions about what did or did not comply with</p> <p>3 regulations and statutes?</p> <p>4 MR. MIGLIORI: Objection.</p> <p>5 THE WITNESS: No, ma'am.</p> <p>6 BY MS. MAINIGI:</p> <p>7 Q. That would have been the office of</p> <p>8 legal counsel at DEA, correct?</p> <p>9 A. Among one of many.</p> <p>10 Q. Now, if you, as one of the employees</p> <p>11 of DEA, knew facts that indicated that</p> <p>12 registrants were failing to maintain effective</p> <p>13 controls against diversion, you would have</p> <p>14 tried to take some sort of action, correct?</p> <p>15 MR. MIGLIORI: Objection. Form.</p> <p>16 Foundation.</p> <p>17 THE WITNESS: I would have tried --</p> <p>18 I would have begun looking into it to -- to</p> <p>19 explore it. I -- "action" is a very broad</p> <p>20 word.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. To your knowledge, no one from DEA</p> <p>23 told registrants to submit anything other than</p> <p>24 Excessive Purchase Reports until the 2005, 2007</p> <p>25 time frame we've been talking about, correct?</p>
<p style="text-align: right;">Page 490</p> <p>1 MR. MIGLIORI: Objection.</p> <p>2 BY MS. MAINIGI:</p> <p>3 Q. So let's -- let's -- let's make sure</p> <p>4 the record is clear. I -- let me do -- I</p> <p>5 apologize. Let -- let -- let me try to make</p> <p>6 sure that the record is clear.</p> <p>7 To the best of your knowledge,</p> <p>8 Mr. Wright, in your experience, do you agree</p> <p>9 that no one at DEA told a registrant that there</p> <p>10 was anything improper or illegal about the</p> <p>11 practice of submitting Excessive Purchase</p> <p>12 Reports prior to 2005?</p> <p>13 A. To the best of my knowledge, no.</p> <p>14 Q. DEA would not have blessed a</p> <p>15 practice that did not comply with the</p> <p>16 regulation, correct?</p> <p>17 MR. MIGLIORI: Objection. Scope.</p> <p>18 MR. BENNETT: Objection.</p> <p>19 MR. MIGLIORI: Authority.</p> <p>20 THE WITNESS: I was never at that</p> <p>21 level to say what DEA would approve or not</p> <p>22 approve. Never. Everything I did got stamped,</p> <p>23 spended and folded and mutilated 20 different</p> <p>24 ways.</p> <p>25 BY MS. MAINIGI:</p>	<p style="text-align: right;">Page 492</p> <p>1 A. To the best of my knowledge.</p> <p>2 Q. To the best of your knowledge, that</p> <p>3 is a correct statement?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Okay. And I believe you testified</p> <p>6 to this before, but the DEA continued to accept</p> <p>7 those Excessive Purchase Reports even after the</p> <p>8 distributor initiative briefings that you</p> <p>9 discussed with Mr. Migliori began, correct?</p> <p>10 MR. MIGLIORI: Objection. Beyond</p> <p>11 the scope.</p> <p>12 MR. BENNETT: Objection.</p> <p>13 MS. MAINIGI: Let me -- let me</p> <p>14 withdraw the question. And I'll -- I'll -- let</p> <p>15 me break it up a little bit for you. Okay?</p> <p>16 THE WITNESS: Thank you.</p> <p>17 BY MS. MAINIGI:</p> <p>18 Q. You testified that the distributor</p> <p>19 briefings began towards the end of 2005 and</p> <p>20 actually continued for several more years</p> <p>21 thereafter, correct?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. And, in fact, I recall you</p> <p>24 discussing with Mr. Migliori the concept of</p> <p>25 doing one of the distributor briefings with --</p>



<p style="text-align: right;">Page 493</p> <p>1 with the trade association HDMA. I think it</p> <p>2 was at the end of 2007.</p> <p>3 Do you remember that?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. And I believe you testified last</p> <p>6 week that there were some distributor briefings</p> <p>7 that took place even after 2007, correct?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. So there was a period of time where</p> <p>10 a number of the one-on-one distributor</p> <p>11 briefings were happening, correct?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. Okay. And I believe you told me</p> <p>14 last week that, even after the distributor</p> <p>15 briefings began at the end of 2005, to your</p> <p>16 knowledge the DEA continued to accept Excessive</p> <p>17 Order Reports from registrants for some period</p> <p>18 of time after the briefings began.</p> <p>19 A. Only for those that have not been</p> <p>20 briefed, not accepting or maybe more from those</p> <p>21 that have been -- the -- the -- the distributor</p> <p>22 briefing or whatever had been given to.</p> <p>23 There's -- there had to be a</p> <p>24 transition time. We couldn't just fall on top</p> <p>25 of everybody all at once.</p>	<p style="text-align: right;">Page 495</p> <p>1 Do you remember that discussion?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. And you're familiar with the statute</p> <p>4 and the regulations that are at issue here,</p> <p>5 correct?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. Would you like me to put them in</p> <p>8 front of you, or do you feel like you're</p> <p>9 sufficiently aware of them?</p> <p>10 A. Oh, I would rather have them in</p> <p>11 front of me.</p> <p>12 MS. MAINIGI: Okay.</p> <p>13 THE WITNESS: I -</p> <p>14 MS. MAINIGI: Let's do that.</p> <p>15 THE WITNESS: After a few years --</p> <p>16 MS. MAINIGI: Understood.</p> <p>17 46 is the statute, sir.</p> <p>18 (Deposition Exhibit 46 was marked</p> <p>19 for identification.)</p> <p>20 MS. MAINIGI: And 47 is the</p> <p>21 regulation, sir.</p> <p>22 (Deposition Exhibit 47 was marked</p> <p>23 for identification.)</p> <p>24 BY MS. MAINIGI:</p> <p>25 Q. Now, the -- this is just a reference</p>
<p style="text-align: right;">Page 494</p> <p>1 Q. That's right.</p> <p>2 Because it would have been -- it --</p> <p>3 it took a while for the registrants to build</p> <p>4 out essentially a new system, correct?</p> <p>5 A. I don't know if "build out." But</p> <p>6 they had to employ and -- and start it. But it</p> <p>7 wasn't fair for brief -- Company A and Company</p> <p>8 B hadn't been briefed, and make them -- Company</p> <p>9 B change.</p> <p>10 Q. Do you recall saying to any company</p> <p>11 after a briefing that you would no longer</p> <p>12 accept Excessive Order Reports from that</p> <p>13 company starting from some date certain?</p> <p>14 A. I never recall giving anybody a</p> <p>15 hard, fast date of transition.</p> <p>16 Q. Okay. Do you recall ever sending</p> <p>17 out a letter to a company telling them you were</p> <p>18 no longer going to accept Excessive Order</p> <p>19 Reports from that company?</p> <p>20 A. I don't have any recollection of</p> <p>21 ever doing that.</p> <p>22 Q. Now, there was some discussion about</p> <p>23 the due diligence that a company may perform in</p> <p>24 determining whether an order is suspicious or</p> <p>25 not.</p>	<p style="text-align: right;">Page 496</p> <p>1 for you if -- if you need the statute or the</p> <p>2 regulation.</p> <p>3 I believe, when you spoke of best</p> <p>4 practice -- when you spoke of the due diligence</p> <p>5 that may be performed, you spoke of it in terms</p> <p>6 of best practices, correct?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. So the due diligence that got</p> <p>9 referenced in your discussion this morning,</p> <p>10 that is not required by the statute or the</p> <p>11 regulation, correct?</p> <p>12 MR. BENNETT: Objection.</p> <p>13 THE WITNESS: It is not mentioned</p> <p>14 specifically.</p> <p>15 BY MS. MAINIGI:</p> <p>16 Q. It is, in your mind, a best</p> <p>17 practice, correct?</p> <p>18 A. I don't see how it can be -- it's a</p> <p>19 little more than best practice. I know it's</p> <p>20 not stipulated. But I don't see how you can do</p> <p>21 the assessments without going through some of</p> <p>22 those -- those processes.</p> <p>23 Q. And it is the documentation of --</p> <p>24 whatever due diligence is done by a company,</p> <p>25 that may be a best practice, but it is not</p>

<p style="text-align: right;">Page 497</p> <p>1 required by statute or regulation, correct?</p> <p>2 MR. BENNETT: Objection.</p> <p>3 MR. SHKOLNIK: Objection to form.</p> <p>4 THE WITNESS: Yes, ma'am.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. When you did your distributor</p> <p>7 briefings, you did not note in your distributor</p> <p>8 briefings the documentation of due diligence,</p> <p>9 did you?</p> <p>10 A. No, ma'am.</p> <p>11 MR. BENNETT: Mr. Wright, do you</p> <p>12 need to supplement your answer?</p> <p>13 THE WITNESS: I'm not changing my</p> <p>14 answer.</p> <p>15 MR. BENNETT: Okay.</p> <p>16 BY MS. MAINIGI:</p> <p>17 Q. There was testimony this morning</p> <p>18 about a September 11th, 2007 DEA conference.</p> <p>19 Do you recall that?</p> <p>20 A. In Houston.</p> <p>21 Q. That's correct.</p> <p>22 Do you recall that discussion back</p> <p>23 and forth with you and Mr. Migliori?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. It might have even been</p>	<p style="text-align: right;">Page 499</p> <p>1 Q. And that was not necessarily a</p> <p>2 pleasant experience for you, correct?</p> <p>3 A. No, ma'am.</p> <p>4 Q. That -- the date of your testimony</p> <p>5 was in the year 2011, correct?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. And 2011 is certainly closer in time</p> <p>8 to 2007 than 2019 is, correct?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. So in 2011 your memory about whether</p> <p>11 you attended that conference might be a bit</p> <p>12 better; don't you agree?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Okay. Let's take a look at your</p> <p>15 testimony at Page 368, lines 10 through 14.</p> <p>16 MR. SHKOLNIK: Can we have the date</p> <p>17 of the transcript so we know which one you're</p> <p>18 talking about.</p> <p>19 MS. MAINIGI: Page 368, pages --</p> <p>20 lines 10 to 14. And the trial testimony date</p> <p>21 is August 12th, 2011.</p> <p>22 THE WITNESS: Okay.</p> <p>23 BY MS. MAINIGI:</p> <p>24 Q. At Page 368, lines 10 through 14,</p> <p>25 have you had a chance to review your testimony?</p>
<p style="text-align: right;">Page 498</p> <p>1 Mr. Shkolnik. I -- I may have gotten that</p> <p>2 wrong.</p> <p>3 But in any case, with the plaintiffs</p> <p>4 you discussed the concept of whether you</p> <p>5 attended the DEA conference on September 11th,</p> <p>6 2007, correct?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. And I believe your testimony was</p> <p>9 that you couldn't remember, but you thought</p> <p>10 maybe you had.</p> <p>11 Do you remember that?</p> <p>12 A. I've been to Houston several times.</p> <p>13 And I just can't recall if it was in connection</p> <p>14 with this or not.</p> <p>15 Q. Okay. And Mr. Migliori or</p> <p>16 Mr. Shkolnik plaintiffs' counsel walked you</p> <p>17 through the deck or PowerPoint associated with</p> <p>18 that DEA conference, correct?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Now, I think in front of you you've</p> <p>21 your trial testimony in the binder.</p> <p>22 A. Okay. Thank you.</p> <p>23 Q. And you recall testifying at the</p> <p>24 H.D. Smith trial, correct?</p> <p>25 A. Unfortunately, yes, ma'am.</p>	<p style="text-align: right;">Page 500</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. Okay. Does it appear to you,</p> <p>3 Mr. Wright, upon reflection, that you did not</p> <p>4 attend the September 11, 2007, DEA conference?</p> <p>5 A. According to this statement that I</p> <p>6 made, no, I did not.</p> <p>7 Q. And when did you make the statement?</p> <p>8 A. This was 2011.</p> <p>9 Q. What was the statement you made</p> <p>10 Mr. Wright?</p> <p>11 A. Oh, you want me to read it verbatim?</p> <p>12 Q. Or you can -- you can paraphrase it.</p> <p>13 Whatever you wish.</p> <p>14 MR. MIGLIORI: Objection. Form.</p> <p>15 THE WITNESS: "Question: Did you</p> <p>16 attend the DEA distributor conference in</p> <p>17 Houston September 11th or 12th of 2007?</p> <p>18 "Answer: To the best of my</p> <p>19 recollection, no, I did not."</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. So sitting here today, just to be</p> <p>22 clear, Mr. Wright, to the best of your</p> <p>23 recollection sitting here today, did you attend</p> <p>24 the September 11th, 2007, DEA conference?</p> <p>25 A. In Houston, Texas.</p>

<p style="text-align: right;">Page 501</p> <p>1 Q. Yes.</p> <p>2 A. Apparently to previous testimony, I</p> <p>3 did not.</p> <p>4 Q. Okay. Based on prior documents that</p> <p>5 you reviewed, is it clear that Mr. Mapes</p> <p>6 attended that conference?</p> <p>7 MR. BENNETT: Objection. Form.</p> <p>8 THE WITNESS: It appears so.</p> <p>9 BY MS. MAINIGI:</p> <p>10 Q. And sitting here today, you don't</p> <p>11 recall having a discussion with Mr. Mapes about</p> <p>12 what he specifically said or discussed at that</p> <p>13 conference, do you?</p> <p>14 A. I -- I only snicker because I - how</p> <p>15 many thousands of things did I talk to him</p> <p>16 about. I -- I do not know. I would not know.</p> <p>17 BY MS. MAINIGI:</p> <p>18 Q. And so, when you were asked a series</p> <p>19 of questions by plaintiffs' counsel about what</p> <p>20 might have been said at the conference or what</p> <p>21 got said at the conference, the September 11th,</p> <p>22 2007 conference, that was speculation on your</p> <p>23 part, correct?</p> <p>24 MR. SHKOLNIK: Objection to form.</p> <p>25 THE WITNESS: I don't think it would</p>	<p style="text-align: right;">Page 503</p> <p>1 Q. Okay. Now, you also got asked a</p> <p>2 number of questions -- well, let's back up.</p> <p>3 You were shown also copies of</p> <p>4 various letters to registrants from Joe</p> <p>5 Rannazzisi in the 2006 and 2007 time period,</p> <p>6 correct?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. And you've testified that you didn't</p> <p>9 see Mr. Rannazzisi's letters before they went</p> <p>10 out, correct?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. You did not see them, right?</p> <p>13 A. No, ma'am. I did not.</p> <p>14 Q. Okay. And I believe you said this</p> <p>15 morning that you saw Mr. Rannazzisi's letter</p> <p>16 after the fact in passing, correct?</p> <p>17 MR. MIGLIORI: Objection. Misstates</p> <p>18 testimony.</p> <p>19 A. I believe that is exactly what I</p> <p>20 said.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. Plaintiffs' counsel reviewed various</p> <p>23 passages from the Rannazzisi letters with you</p> <p>24 in detail, correct?</p> <p>25 A. Yes, ma'am. They did.</p>
<p style="text-align: right;">Page 502</p> <p>1 be speculation. I was only answering the</p> <p>2 question as it was directed to me.</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. Well, you were asked -- do you</p> <p>5 recall being asked questions, Mr. Wright, about</p> <p>6 what may have been discussed with the</p> <p>7 registrants at the conference?</p> <p>8 A. Based upon the slides that -- that</p> <p>9 he showed.</p> <p>10 Q. Do you know if those slides got</p> <p>11 delivered at the conference?</p> <p>12 A. No, ma'am. Not specifically.</p> <p>13 Q. So you indicating -- you -- you</p> <p>14 reading the slides and telling the plaintiffs'</p> <p>15 counsel what you thought might have been said</p> <p>16 as a result of review of the slide deck, you</p> <p>17 have no idea whether that got communicated to</p> <p>18 the registrants, correct?</p> <p>19 A. Yes, ma'am. That's correct.</p> <p>20 Q. Okay. Now, the person that might</p> <p>21 know and might have some recollection of what</p> <p>22 got said by the DEA to the registrants at that</p> <p>23 September 11th, 2007 conference is Mr. Mapes,</p> <p>24 correct?</p> <p>25 A. Yes, ma'am.</p>	<p style="text-align: right;">Page 504</p> <p>1 Q. And they asked you if you agreed</p> <p>2 that you would have, in fact, said those things</p> <p>3 specifically to distributors in distributor</p> <p>4 briefings.</p> <p>5 Do you recall that?</p> <p>6 MR. MIGLIORI: Objection. Misstates</p> <p>7 the question and answer.</p> <p>8 THE WITNESS: Yes, ma'am.</p> <p>9 BY MS. MAINIGI:</p> <p>10 Q. But sitting here today, Mr. Wright,</p> <p>11 you can't possibly know whether you</p> <p>12 specifically said anything that was in</p> <p>13 Mr. Rannazzisi's letter, which you saw in</p> <p>14 passing after the fact, in the distributor</p> <p>15 briefings that you did for several years, could</p> <p>16 you?</p> <p>17 MR. BENNETT: Objection to form.</p> <p>18 BY MS. MAINIGI:</p> <p>19 Q. "Yes" or "no"?</p> <p>20 A. Then I need the question repeated,</p> <p>21 please.</p> <p>22 Q. Let me start over.</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Because I probably confused us both.</p> <p>25 I'm sorry.</p>

<p style="text-align: right;">Page 505</p> <p>1 You did the distributor briefings</p> <p>2 for a number of years, right?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. And you had a very fulsome</p> <p>5 PowerPoint deck that you utilized as the basis</p> <p>6 for your briefing, correct?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. And then you also said things out</p> <p>9 loud at the various briefings, I'm sure,</p> <p>10 correct, that were not in your PowerPoint?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Okay. But sitting here today, can</p> <p>13 you tell me under oath and specifically what</p> <p>14 you might have said out loud at those briefings</p> <p>15 that was not necessarily contained in your</p> <p>16 PowerPoint deck?</p> <p>17 MR. MIGLIORI: Objection to form.</p> <p>18 THE WITNESS: To some extent, yes.</p> <p>19 Because I repeated them quite often. I -- I</p> <p>20 made sure that they were conveyed to every</p> <p>21 distributor or to everybody that -- that -- it</p> <p>22 had to be emphasized.</p> <p>23 BY MS. MAINIGI:</p> <p>24 Q. When --</p> <p>25 A. I --</p>	<p style="text-align: right;">Page 507</p> <p>1 it.</p> <p>2 MS. MAINIGI: There's -- there's the</p> <p>3 machine right there.</p> <p>4 MR. SHKOLNIK: I don't -- I don't</p> <p>5 have one. I'm sorry.</p> <p>6 MS. McCCLURE: I'm sure he'll pass it</p> <p>7 over. You guys are friends. You're sharing.</p> <p>8 Just pass it over.</p> <p>9 BY MS. MAINIGI:</p> <p>10 Q. Sitting here today, many, many years</p> <p>11 later, Mr. Wright, unless it is specifically</p> <p>12 reflected in your PowerPoint, you were at best</p> <p>13 making an educated guess about what you</p> <p>14 specifically said to distributors at the</p> <p>15 distributor briefings, correct?</p> <p>16 MR. MIGLIORI: Objection. Form.</p> <p>17 MR. BENNETT: Objection. Form.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MS. MAINIGI:</p> <p>20 Q. And maybe after the next break we'll</p> <p>21 come back and pull out some of the very</p> <p>22 specific points from the letter you were asked</p> <p>23 to -- to agree with.</p> <p>24 MR. MIGLIORI: Is that a question?</p> <p>25 Form.</p>
<p style="text-align: right;">Page 506</p> <p>1 Q. Go ahead. Finish.</p> <p>2 A. To be a PowerPoint is just to convey</p> <p>3 the -- the major concept. Anybody -- I don't</p> <p>4 like using a PowerPoint to do my job for me.</p> <p>5 Q. You certainly put into the</p> <p>6 PowerPoint the stuff you thought was very</p> <p>7 important, correct?</p> <p>8 A. Critical. Yes, ma'am.</p> <p>9 Q. Sitting here today, you can't</p> <p>10 possibly tell me that you knew for sure that</p> <p>11 some of the things that were in the Rannazzisi</p> <p>12 letters were things that you specifically said</p> <p>13 to all the distributors, can you?</p> <p>14 MR. BENNETT: Objection. Form.</p> <p>15 MR. MIGLIORI: Objection. Form.</p> <p>16 THE WITNESS: Based upon this --</p> <p>17 this morning, what you're referring to, I</p> <p>18 answered those questions when I was asked in</p> <p>19 the context of this is what I saw in the</p> <p>20 PowerPoint. That is how I answered those.</p> <p>21 MR. SHKOLNIK: I'm sorry. Could</p> <p>22 I've the question and answer read back.</p> <p>23 MS. MAINIGI: You can do that on</p> <p>24 your own time.</p> <p>25 MR. SHKOLNIK: I just couldn't hear</p>	<p style="text-align: right;">Page 508</p> <p>1 BY MS. MAINIGI:</p> <p>2 Q. Let's take a look at your</p> <p>3 distributor briefing slides. I believe that</p> <p>4 they're in your binder. Exhibit 10 -- oh, I'm</p> <p>5 -- I apologize, Mr. Wright. They're Exhibit</p> <p>6 10.</p> <p>7 MR. SHKOLNIK: Can you make sure the</p> <p>8 exhibits that have been marked are in front of</p> <p>9 the witness for the last two days.</p> <p>10 MS. MAINIGI: We -- we can do that.</p> <p>11 THE WITNESS: Okay. Exhibit which</p> <p>12 one?</p> <p>13 MS. MAINIGI: It's Exhibit 10, sir.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MS. MAINIGI: It's the -- it's --</p> <p>16 it's the -- one of the examples --</p> <p>17 THE WITNESS: Got it.</p> <p>18 MS. MAINIGI: -- of the distributor</p> <p>19 briefing.</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. By the way, do you recall -- you got</p> <p>22 asked some questions about -- about Cardinal</p> <p>23 this morning.</p> <p>24 Do you recall testifying last week</p> <p>25 that you did not actually attend the Cardinal</p>

<p style="text-align: right;">Page 509</p> <p>1 distributor briefing?</p> <p>2 A. To the best of my recollection, no.</p> <p>3 Q. And do you recall testifying last</p> <p>4 week that it was actually Mr. Mapes and Ms.</p> <p>5 Seeger that attended the Cardinal briefing?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. And so sitting here today, you do</p> <p>8 not know yourself what specifically got said</p> <p>9 outside of the PowerPoint by Mr. Mapes or Ms.</p> <p>10 Seeger at the Cardinal distributor briefing,</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. Now, taking -- feel free to</p> <p>14 refer to the Internet pharmacy data PowerPoint</p> <p>15 that, as I understand it, you used for your</p> <p>16 distributor briefers.</p> <p>17 By the way, you also mentioned last</p> <p>18 week that the early distributor briefings Mr.</p> <p>19 Mapes took the lead on those, and you were an</p> <p>20 attendee.</p> <p>21 Do you recall that?</p> <p>22 A. I do.</p> <p>23 MR. SHKOLNIK: Objection to form.</p> <p>24 BY MS. MAINIGI:</p> <p>25 Q. Was it Mr. Mapes or you or both of</p>	<p style="text-align: right;">Page 511</p> <p>1 to answer. Otherwise, you can answer.</p> <p>2 THE WITNESS: Both.</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. You worked on both, and he worked on</p> <p>5 both?</p> <p>6 A. On the regulations and that</p> <p>7 discussion, we -- that was both. The -- yes,</p> <p>8 ma'am. Yes, ma'am. Because it -- the whole</p> <p>9 concept of the data -- what we were trying to</p> <p>10 get across. So yes.</p> <p>11 Q. Now, you mentioned something about</p> <p>12 red ink.</p> <p>13 That -- Do you mean that was the</p> <p>14 editing back and forth that naturally occurs?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. Okay.</p> <p>17 MR. BENNETT: Objection.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: Yes, ma'am.</p> <p>20 MR. BENNETT: I don't want to get</p> <p>21 into the specifics of who was doing red ink or</p> <p>22 where they got advice or -- or the internal</p> <p>23 deliberative process as far as creating this.</p> <p>24 BY MS. MAINIGI:</p> <p>25 Q. Well, let me ask you this,</p>
<p style="text-align: right;">Page 510</p> <p>1 you that actually created the distributor</p> <p>2 briefing, the PowerPoint?</p> <p>3 MR. BENNETT: Objection to the</p> <p>4 extent it goes into internal deliberations.</p> <p>5 But you can answer if you know.</p> <p>6 THE WITNESS: The question again?</p> <p>7 BY MS. MAINIGI:</p> <p>8 Q. Do you recall, Mr. Wright, whether</p> <p>9 the Internet pharmacy data briefing that we</p> <p>10 have been referring to as the distributor</p> <p>11 briefing, whether you actually created this</p> <p>12 PowerPoint or whether Mr. Mapes created it or</p> <p>13 whether you did it jointly?</p> <p>14 A. Jointly.</p> <p>15 Q. Do you remember which pages you</p> <p>16 wrote versus Mr. Mapes?</p> <p>17 A. I remember a lot of red ink. No,</p> <p>18 ma'am.</p> <p>19 Q. Okay. Do you remember whether you</p> <p>20 specifically concentrated on the data examples</p> <p>21 and he concentrated on some of the DEA</p> <p>22 requirements?</p> <p>23 MR. BENNETT: Objection.</p> <p>24 To the extent that would require you</p> <p>25 to disclose internal deliberations, you're not</p>	<p style="text-align: right;">Page 512</p> <p>1 Mr. Wright.</p> <p>2 I don't want to get into those</p> <p>3 details either, but answer this question for me</p> <p>4 "yes" or "no": Do you even recall at this</p> <p>5 point any of the specifics about who edited</p> <p>6 what or what edits you might have made versus</p> <p>7 what edits Mr. Mapes may have been -- may have</p> <p>8 made, or is it just too long ago?</p> <p>9 A. No, ma'am. It's too long ago.</p> <p>10 Q. Okay. Now, I think you testified at</p> <p>11 the H.D. Smith trial that, for whatever reason,</p> <p>12 you deleted your e-mails prior to sometime in</p> <p>13 2010.</p> <p>14 Do you remember testifying to that</p> <p>15 effect?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And your e-mails that were deleted</p> <p>18 prior to 2010 would have contained some of the</p> <p>19 back-and-forth red ink that we're talking</p> <p>20 about, right?</p> <p>21 MR. BENNETT: Objection. Form.</p> <p>22 MR. MIGLIORI: Objection. It's</p> <p>23 beyond the scope of prior examination.</p> <p>24 THE WITNESS: I doubt that those</p> <p>25 discussions would have been in those e-mails.</p>



<p style="text-align: right;">Page 513</p> <p>1 But yes, it would have deleted that.</p> <p>2 BY MS. MAINIGI:</p> <p>3 Q. Well, they were written discussions</p> <p>4 or e-mails, right?</p> <p>5 Red ink would be edits in writing?</p> <p>6 A. No, ma'am. That would be us sitting</p> <p>7 across from each other and slamming each other</p> <p>8 and objecting and doing this. That was most of</p> <p>9 my discussion with Mr. Mapes.</p> <p>10 Q. Was just sitting across from him?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Okay. And was there -- I think you</p> <p>13 testified at the trial that there was some back</p> <p>14 and forth about internal discussions in</p> <p>15 particular about the do-not-ship requirement</p> <p>16 that were in an e-mail that ultimately got</p> <p>17 deleted.</p> <p>18 Do you remember that?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Okay. And those were internal</p> <p>21 discussions about whether to -- how to</p> <p>22 essentially approach the do-not-ship</p> <p>23 requirement in conversations with distributors,</p> <p>24 correct.</p> <p>25 MR. BENNETT: Objection to the</p>	<p style="text-align: right;">Page 515</p> <p>1 question pending. Let's go back and look.</p> <p>2 The question -- I'll ask the court</p> <p>3 reporter to read back the question, please.</p> <p>4 (The record was read as requested.)</p> <p>5 MR. BENNETT: So I'm going to object</p> <p>6 to the extent that this question calls for</p> <p>7 disclosure of internal deliberations and would</p> <p>8 object to him disclosing any other individuals</p> <p>9 beyond himself or Mr. Mapes who was involved.</p> <p>10 But I believe he can say if there were others</p> <p>11 involved.</p> <p>12 Do you understand the instruction?</p> <p>13 THE WITNESS: I understand the</p> <p>14 instruction.</p> <p>15 And I'm rethinking the answer. I'm</p> <p>16 trying to satisfy everybody.</p> <p>17 Yes.</p> <p>18 BY MS. MAINIGI:</p> <p>19 Q. Can you identify those other</p> <p>20 individuals besides Mr. Mapes?</p> <p>21 MR. BENNETT: Objection. Internal</p> <p>22 deliberative process, the individuals who were</p> <p>23 involved.</p> <p>24 I'm instructing you not to answer</p> <p>25 that. I don't believe you are authorized to</p>
<p style="text-align: right;">Page 514</p> <p>1 extent you're asking about prior testimony, he</p> <p>2 can answer. To the extent you're asking about</p> <p>3 the contents of internal deliberations, the</p> <p>4 witness is not authorized to answer that</p> <p>5 question.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MS. MAINIGI:</p> <p>8 Q. And were those discussions just with</p> <p>9 Mr. Mapes, or did they perhaps include</p> <p>10 discussions with other folks at DEA?</p> <p>11 MR. BENNETT: Objection. Same</p> <p>12 instructions.</p> <p>13 MR. SHKOLNIK: Just note my</p> <p>14 objection here. Special Master Cohen was very</p> <p>15 clear. Reserving time --</p> <p>16 MS. MAINIGI: I'm sorry. There --</p> <p>17 there is -- this --</p> <p>18 MR. SHKOLNIK: No. Reserving time</p> <p>19 was not meant to do a second deposition. And I</p> <p>20 think maybe we should go to the special master</p> <p>21 at the beginning -- when we take the break.</p> <p>22 MS. MAINIGI: Okay.</p> <p>23 THE WITNESS: And I apologize again.</p> <p>24 Would you please repeat the question to me.</p> <p>25 MS. MAINIGI: I'm not sure there's a</p>	<p style="text-align: right;">Page 516</p> <p>1 disclose that.</p> <p>2 BY MS. MAINIGI:</p> <p>3 Q. You were asked -- Mr. Migliori this</p> <p>4 morning went through the Internet pharmacy data</p> <p>5 deck with you page by page, practically,</p> <p>6 correct?</p> <p>7 A. He did cover quite a bit of the</p> <p>8 content.</p> <p>9 Q. And I -- I think he made note of the</p> <p>10 fact, in fact, that he felt you and I had not</p> <p>11 the spent enough time on the deck last week.</p> <p>12 Do you remember that?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Now, feel free to refer to the deck,</p> <p>15 but do you recall anything from this deck about</p> <p>16 the due diligence?</p> <p>17 A. No, ma'am.</p> <p>18 Q. Okay.</p> <p>19 A. It's not mentioned. And it's in</p> <p>20 that --</p> <p>21 Q. Do you recall anything about --</p> <p>22 A. -- terminology.</p> <p>23 Q. Do you recall anything from this</p> <p>24 deck about know your customer?</p> <p>25 A. No, ma'am.</p>

<p style="text-align: right;">Page 517</p> <p>1 Q. But Mr. Migliori asked you a litany 2 of questions about what might have been in 3 these distributor briefings, very specific 4 questions. 5 Do you remember that? 6 A. Yes, ma'am. 7 Q. And you seemed to readily agree with 8 each one of the questions he asked without even 9 looking at the deck that, yes, that was 10 contained in the distributor briefing. 11 Do you remember that? 12 A. Yes, ma'am. 13 Q. Did you go back and look to see if 14 those were actually in the distributor 15 briefing? 16 A. No, ma'am. 17 Q. And now, sitting here today, you 18 can't recall specifically what you said even in 19 the briefings that you actually did do, right? 20 A. I've some recollection of what I 21 said to -- let -- let me answer it this way: 22 The letters was -- and the questions I was 23 asked was consistent with the message that the 24 DEA was putting out at the time. 25 Q. So your testimony is the general</p>	<p style="text-align: right;">Page 519</p> <p>1 Q. You don't remember what you 2 specifically said, do you? 3 A. Yes, ma'am. 4 MR. SHKOLNIK: Objection. 5 THE WITNESS: To a certain -- 6 MR. SHKOLNIK: Was the prior 7 question withdrawn? 8 THE WITNESS: Yes, ma'am. I have 9 some recollection. 10 BY MS. MAINIGI: 11 Q. Okay. What did you specifically 12 say? 13 MR. MIGLIORI: Objection to form. 14 THE WITNESS: Okay. 15 BY MS. MAINIGI: 16 Q. That was not in the Internet 17 briefing. 18 A. Okay. "You must know your customer 19 on an inmate basis because that customer could 20 get you in trouble." 21 And I can certainly guarantee that I 22 probably said that at every briefing. 23 Q. The briefing that -- 24 A. And I know -- 25 Q. -- you did.</p>
<p style="text-align: right;">Page 518</p> <p>1 gist of what was in the Rannazzisi letters that 2 came after the distributor briefings would have 3 likely been contained in presentations to 4 distributors, right? 5 A. Yes, ma'am. 6 Q. Okay. But sitting here today, you 7 cannot recall for me specifically what you said 8 to distributors even in the briefings you 9 attended, correct? 10 MR. BENNETT: Objection. 11 MR. MIGLIORI: Objection. It's been 12 asked and answered four times. 13 THE WITNESS: I'm -- I'm not 14 annoying you. 15 May I've the question again. I -- I 16 -- I do apologize. 17 (The record was read as requested.) 18 MR. SHKOLNIK: Objection. Form. 19 MR. MIGLIORI: Asked and answered. 20 THE WITNESS: Can I have a short 21 recess? 22 MS. MAINIGI: Not while the 23 question's pending. 24 THE WITNESS: Ah, that's right. 25 BY MS. MAINIGI:</p>	<p style="text-align: right;">Page 520</p> <p>1 A. Yes, ma'am. 2 MR. MIGLIORI: Don't interrupt. 3 THE WITNESS: And I know it's also 4 in the H.D. Smith testimony. And I've stated 5 it in there. 6 But I -- the reason I know it is 7 because some people thought that I was -- they 8 didn't like the word "intimacy." I thought it 9 conveyed the extent of what you should do with 10 your -- with your customers. 11 So in those things that I've 12 repeated, I have recollection of those. 13 BY MS. MAINIGI: 14 Q. Anything else -- 15 MR. BENNETT: Can -- 16 BY MS. MAINIGI: 17 Q. -- that -- 18 MR. BENNETT: Counsel -- 19 MS. MAINIGI: Hang on. 20 MR. BENNETT: Can we take a break? 21 MS. MAINIGI: No. Not -- I'd like 22 to finish this line of questioning and then -- 23 MR. BENNETT: The witness has asked 24 for a break. 25 MS. MAINIGI: I understand. But I</p>

<p style="text-align: right;">Page 521</p> <p>1 think it's very important that we finish this</p> <p>2 line of questioning.</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. Mr. Wright, I will not keep you much</p> <p>5 longer, and then I will let you take a break.</p> <p>6 But do you recall anything else</p> <p>7 specifically that you would have said at your</p> <p>8 distributor briefing that's not in the deck?</p> <p>9 A. The only other thing I can</p> <p>10 specifically recall is that "Your customer can</p> <p>11 ruin your business. Get to know them."</p> <p>12 Q. Anything else?</p> <p>13 A. That -- not specifically right now.</p> <p>14 MS. MAINIGI: Okay. Thank you. We</p> <p>15 can take a break.</p> <p>16 MR. BENNETT: Thank you, Counsel.</p> <p>17 THE VIDEOGRAPHER: We are going off</p> <p>18 the record.</p> <p>19 This is the end of Media Unit No. 4.</p> <p>20 The time is 3:58.</p> <p>21 (A short recess was taken.)</p> <p>22 THE VIDEOGRAPHER: We are going back</p> <p>23 on the record.</p> <p>24 This is the start of Media Unit No.</p> <p>25 5.</p>	<p style="text-align: right;">Page 523</p> <p>1 MR. SHKOLNIK: Object to the form.</p> <p>2 MR. BENNETT: Objection.</p> <p>3 THE WITNESS: I -- I'd have to</p> <p>4 refresh.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. Well, when you provided your trial</p> <p>7 testimony in the H.D. Smith trial in 2011,</p> <p>8 there was a judge right there, right?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. And he was listening to everything</p> <p>11 you were saying, correct?</p> <p>12 MR. BENNETT: Objection.</p> <p>13 MR. MIGLIORI: Objection.</p> <p>14 THE WITNESS: I hope so.</p> <p>15 MR. SHKOLNIK: Don't assume.</p> <p>16 BY MS. MAINIGI:</p> <p>17 Q. And you never told the judge that</p> <p>18 you wanted to change the any of your testimony</p> <p>19 at that trial, did you?</p> <p>20 MR. MIGLIORI: Objection.</p> <p>21 MR. SHKOLNIK: Objection. Form.</p> <p>22 THE WITNESS: No, ma'am.</p> <p>23 BY MS. MAINIGI:</p> <p>24 Q. And you understood that, as an</p> <p>25 official of the DEA, the judge may rely on what</p>
<p style="text-align: right;">Page 522</p> <p>1 The time is 4:21.</p> <p>2 You may proceed, Counsel.</p> <p>3 BY MS. MAINIGI:</p> <p>4 Q. Mr. Wright, you recall the trial</p> <p>5 testimony you provided in 2011 relating to</p> <p>6 H.D. Smith, correct?</p> <p>7 A. I do.</p> <p>8 Q. And you recall this morning</p> <p>9 testifying about the do-not-ship requirement,</p> <p>10 correct?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. And I think the questions that you</p> <p>13 got asked by plaintiffs' counsel were very</p> <p>14 specifically tied to the do-not-ship</p> <p>15 requirement and any changes in statute or</p> <p>16 regulation.</p> <p>17 Do you remember that?</p> <p>18 MR. MIGLIORI: Object.</p> <p>19 THE WITNESS: Yes, ma'am.</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. Okay. But do you remember being</p> <p>22 asked a question related to do-not-ship at</p> <p>23 trial and you provided that testimony at trial</p> <p>24 with a judge sitting right there in front of</p> <p>25 you, right?</p>	<p style="text-align: right;">Page 524</p> <p>1 you testified to under oath at that trial,</p> <p>2 correct?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. Okay. You testified at that</p> <p>5 trial --</p> <p>6 MR. BENNETT: Counsel, do you have a</p> <p>7 page and line?</p> <p>8 BY MS. MAINIGI:</p> <p>9 Q. -- Mr. Wright, that in 2006 and 2007</p> <p>10 there was a significant change in DEA policy,</p> <p>11 DEA guidance, and interpretation of the very</p> <p>12 issues that are at stake in this litigation,</p> <p>13 correct.</p> <p>14 MR. SHKOLNIK: Objection to form.</p> <p>15 And objection to use of the transcript in this</p> <p>16 matter.</p> <p>17 MR. BENNETT: And Counsel, can you</p> <p>18 give me a page and line where you're reading,</p> <p>19 please.</p> <p>20 MS. MAINIGI: 382, 24.</p> <p>21 BY MS. MAINIGI:</p> <p>22 Q. Do you recall testifying about the</p> <p>23 do-not-ship requirement?</p> <p>24 MR. MIGLIORI: Same Objection.</p> <p>25 THE WITNESS: Are you asking me did</p>

65 (Pages 521 - 524)

<p style="text-align: right;">Page 525</p> <p>1 I make that statement?</p> <p>2 BY MS. MAINIGI:</p> <p>3 Q. Yes.</p> <p>4 A. Oh, yes.</p> <p>5 Q. Okay. And you testified, at both</p> <p>6 your deposition and at your trial and last</p> <p>7 week, that there was, in fact, a change in DEA</p> <p>8 policy guidance and interpretation as it</p> <p>9 related to the do-not-ship requirement,</p> <p>10 correct?</p> <p>11 MR. SHKOLNIK: Objection. Asked and</p> <p>12 answered by counsel.</p> <p>13 MR. BENNETT: Objection. Form.</p> <p>14 THE WITNESS: Only in the sense</p> <p>15 of -- from it changing from excessive to</p> <p>16 suspicious. Excessive, it went out;</p> <p>17 Suspicious, it did not.</p> <p>18 BY MS. MAINIGI:</p> <p>19 Q. Okay. And to clarify for the jury</p> <p>20 what that means, what I think you are saying is</p> <p>21 that, when the Excessive Order Program existed,</p> <p>22 which was known by DEA, it was also known by</p> <p>23 DEA that registrants would ship orders out even</p> <p>24 if they were on the excessive order report,</p> <p>25 correct?</p>	<p style="text-align: right;">Page 527</p> <p>1 was enough of a change in policy that confusion</p> <p>2 was created among both distributors and DEA</p> <p>3 investigators, correct?</p> <p>4 MR. SHKOLNIK: Objection to form.</p> <p>5 And asked multiple times.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MS. MAINIGI:</p> <p>8 Q. And, in fact, it is because of this</p> <p>9 change in apology that DEA personnel, such as</p> <p>10 yourself, began to conduct distributor</p> <p>11 briefings so that they could familiarize</p> <p>12 distributors with the new policy, right?</p> <p>13 A. Yes, ma'am.</p> <p>14 MS. MAINIGI: Let me give you</p> <p>15 Exhibit 48, Mr. Wright.</p> <p>16 (Deposition Exhibit 48 was marked</p> <p>17 for identification.)</p> <p>18 BY MS. MAINIGI:</p> <p>19 Q. Exhibit 48 is the opinion written by</p> <p>20 the judge in United States versus \$463,497.72</p> <p>21 in U.S. Currency from Best Bank Account dated</p> <p>22 March 30, 2012.</p> <p>23 Do you see that?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. You could -- have you ever reviewed</p>
<p style="text-align: right;">Page 526</p> <p>1 MR. SHKOLNIK: Objection to the</p> <p>2 form.</p> <p>3 MR. BENNETT: Objection to form.</p> <p>4 THE WITNESS: Yes, ma'am.</p> <p>5 BY MS. MAINIGI:</p> <p>6 Q. When the Suspicious Order Program</p> <p>7 came into existence during a several-year time</p> <p>8 period, what DEA said was "We no longer want</p> <p>9 you to ship out any orders that you don't</p> <p>10 resolve and that remain suspicious," correct?</p> <p>11 MR. SHKOLNIK: Objection to form.</p> <p>12 MR. BENNETT: Objection to form.</p> <p>13 BY MS. MAINIGI:</p> <p>14 Q. Is that correct?</p> <p>15 A. No, ma'am. We had -- we told them</p> <p>16 or stipulated what the suspicious order</p> <p>17 guideline was. And to make that decision based</p> <p>18 upon that. There was --</p> <p>19 Q. With the Suspicious Order Program,</p> <p>20 distributors were told to suspend shipments to</p> <p>21 customers if they identified orders as</p> <p>22 suspicious, correct?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. It was understood by you, as you've</p> <p>25 testified several times under oath, that that</p>	<p style="text-align: right;">Page 528</p> <p>1 this document before?</p> <p>2 A. Never seen it before.</p> <p>3 Q. Has anyone ever explained to you</p> <p>4 that the judge who took your testimony, who was</p> <p>5 sitting right up there where judges sit,</p> <p>6 absorbed your testimony and ultimately -- and</p> <p>7 absorbed other people's testimony and</p> <p>8 ultimately produced an opinion?</p> <p>9 MR. SHKOLNIK: Objection to form.</p> <p>10 THE WITNESS: Yes, ma'am. I mean</p> <p>11 nobody told me that. But I understand that's</p> <p>12 the process.</p> <p>13 BY MS. MAINIGI:</p> <p>14 Q. Do you remember -- did anyone ever</p> <p>15 tell you about what the outcome was in the</p> <p>16 H.D. Smith case?</p> <p>17 MR. BENNETT: Object to the extent</p> <p>18 that it's conversations with counsel.</p> <p>19 THE WITNESS: Quite frankly, no.</p> <p>20 BY MS. MAINIGI:</p> <p>21 Q. Did you ever wonder or ask anybody</p> <p>22 what happened?</p> <p>23 A. No. It was the worst day of my</p> <p>24 life.</p> <p>25 Q. The actual trial testimony was the</p>

<p style="text-align: right;">Page 529</p> <p>1 worst day of your life?</p> <p>2 A. The deposition.</p> <p>3 Q. How was the trial testimony? That</p> <p>4 was okay?</p> <p>5 A. It was better. But --</p> <p>6 Q. So you never asked what happened?</p> <p>7 MR. SHKOLNIK: Objection. Asked and</p> <p>8 answered.</p> <p>9 THE WITNESS: Most of the time I --</p> <p>10 I moved from one case to the -- to the next.</p> <p>11 This one was done, this is where I have to pick</p> <p>12 up. My workload was --</p> <p>13 BY MS. MAINIGI:</p> <p>14 Q. You --</p> <p>15 A. -- very contiguous.</p> <p>16 Q. If you take a look at page -- it's</p> <p>17 -- it's No. 6 at the bottom right.</p> <p>18 A. 6?</p> <p>19 Q. Yeah. At the -- it's perhaps not</p> <p>20 the 6th page, but 6 at the bottom right.</p> <p>21 And let me know when you're there.</p> <p>22 And I'm going to ask you to read to yourself</p> <p>23 the fourth paragraph down.</p> <p>24 And then when you're done with the</p> <p>25 fourth, please read the fifth paragraph, sir.</p>	<p style="text-align: right;">Page 531</p> <p>1 standard practice in the industry to file</p> <p>2 suspicious order reports while continuing to</p> <p>3 ship products and that practices had been</p> <p>4 approved by the DEA. Derrick testified that he</p> <p>5 knew that it was H.D. Smith's practice to</p> <p>6 routinely ship products after filing suspicious</p> <p>7 orders reports."</p> <p>8 BY MS. MAINIGI:</p> <p>9 Q. You never told the judge,</p> <p>10 Mr. Wright, did you, that what you testified to</p> <p>11 with respect to what the standard practice was</p> <p>12 that had been approved by the DEA -- you didn't</p> <p>13 agree with that testimony in any way, correct?</p> <p>14 MR. SHKOLNIK: Objection to form.</p> <p>15 MR. BENNETT: Objection.</p> <p>16 THE WITNESS: No, ma'am.</p> <p>17 BY MS. MAINIGI:</p> <p>18 Q. You never went back to the judge of</p> <p>19 your attorney in that case and say, "Oh, what I</p> <p>20 testified to in court I don't agree with any</p> <p>21 more," right?</p> <p>22 MR. SHKOLNIK: Objection to form.</p> <p>23 MR. BENNETT: Objection to any</p> <p>24 conversations he had with counsel.</p> <p>25 To the extent you went back to the</p>
<p style="text-align: right;">Page 530</p> <p>1 A. (Witness complied.)</p> <p>2 Q. Let me know when you're ready.</p> <p>3 A. I think I am.</p> <p>4 Q. So you see in this opinion that the</p> <p>5 judge who -- who wrote it, Judge Lawson,</p> <p>6 mentions your testimony, correct?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. And with respect to your test --</p> <p>9 now, he -- he -- he certainly covered the whole</p> <p>10 issue with your e-mails, right?</p> <p>11 A. He did.</p> <p>12 MR. SHKOLNIK: Objection.</p> <p>13 MR. BENNETT: Objection.</p> <p>14 You can answer.</p> <p>15 MR. SHKOLNIK: Form.</p> <p>16 BY MS. MAINIGI:</p> <p>17 Q. And then at the beginning of the</p> <p>18 fifth paragraph, could you read out loud what</p> <p>19 Judge Lawson said you testified to?</p> <p>20 A. The fifth paragraph.</p> <p>21 Q. Correct.</p> <p>22 MR. BENNETT: Objection.</p> <p>23 You can answer.</p> <p>24 THE WITNESS: "In all events Wright</p> <p>25 testified that the DEA was aware that it was a</p>	<p style="text-align: right;">Page 532</p> <p>1 judge, you can answer.</p> <p>2 BY MS. MAINIGI:</p> <p>3 Q. Did you ever go back to the judge,</p> <p>4 change your hem?</p> <p>5 MR. SHKOLNIK: Objection.</p> <p>6 THE WITNESS: No, ma'am.</p> <p>7 BY MS. MAINIGI:</p> <p>8 Q. Now, before your testimony in this</p> <p>9 matter -- in this, matter, Mr. Wright, you</p> <p>10 received from Mr. Migliori's firm about \$3,000?</p> <p>11 A. I'm sorry. I'm lost in this</p> <p>12 question.</p> <p>13 Q. Well, you're a consultant to -- to</p> <p>14 Summit County, right?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. And you're a consultant retained</p> <p>17 through the Motley Rice firm, right?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. And so, prior to your testimony in</p> <p>20 this matter, as a fact witness you have</p> <p>21 received \$3,000 or so from the Motley Rice</p> <p>22 firm, correct?</p> <p>23 MR. BENNETT: Objection.</p> <p>24 MR. MIGLIORI: Asked and answered.</p> <p>25 MR. BENNETT: And also you said "as</p>



<p style="text-align: right;">Page 533</p> <p>1 a fact witness" or as a consultant?</p> <p>2 MS. MAINIGI: He's testifying here</p> <p>3 as a fact witness.</p> <p>4 MR. BENNETT: Correct.</p> <p>5 But I guess -- objection to form.</p> <p>6 THE WITNESS: Yes, ma'am.</p> <p>7 MR. MIGLIORI: As a fact --</p> <p>8 MS. MAINIGI: I'm going to go ahead</p> <p>9 and pass the baton on to one of my colleagues.</p> <p>10 Shall we go off the record?</p> <p>11 THE VIDEOGRAPHER: We are going off</p> <p>12 the record.</p> <p>13 The time is 4:35.</p> <p>14 (A short recess was taken.)</p> <p>15 THE VIDEOGRAPHER: We are going back</p> <p>16 on the record.</p> <p>17 The time is 4:36.</p> <p>18 You may proceed, Counsel.</p> <p>19 MR. MIGLIORI: Just for a second.</p> <p>20 Counsel, on the last question you</p> <p>21 tried to leave it in -- with a question pending</p> <p>22 that this witness is being paid as a fact</p> <p>23 witness and knowing that's absolutely not the</p> <p>24 case and completely inappropriate.</p> <p>25 I want it to be very clear on this</p>	<p style="text-align: right;">Page 535</p> <p>1 "Prior to your testimony in this matter as a</p> <p>2 fact witness, you have received \$3,000 or so</p> <p>3 from the Motley Rice firm, correct?"</p> <p>4 And the impropriety of that is not</p> <p>5 going to be left without me making a note that</p> <p>6 that is not the -- however it's interpreted,</p> <p>7 he's not being paid as a fact witness. He may</p> <p>8 be a fact witness here. But he's not being</p> <p>9 paid as a fact witness.</p> <p>10 Thank you.</p> <p>11 MR. EPPICH: Thank you.</p> <p>12 EXAMINATION BY COUNSEL FOR McKESSON CORPORATION</p> <p>13 BY MR. EPPICH:</p> <p>14 Q. Mr. Wright, my name is Chris Eppich.</p> <p>15 I represent the McKesson defendants in this --</p> <p>16 in this litigation.</p> <p>17 And I would like to return to some</p> <p>18 testimony you provided about ARCOS.</p> <p>19 Do you remember testifying about</p> <p>20 ARCOS earlier today?</p> <p>21 Do you remember testifying about</p> <p>22 that?</p> <p>23 A. No, but --</p> <p>24 Q. Not today? There's been a lot of</p> <p>25 testimony today.</p>
<p style="text-align: right;">Page 534</p> <p>1 record that my objection is it totally</p> <p>2 misstates the record. And it is not true, nor</p> <p>3 is it consistent with his prior testimony.</p> <p>4 After all the objections, this</p> <p>5 record may reflect to the contrary. And I want</p> <p>6 it to be very clear. He's not be paid as a</p> <p>7 fact witness by my firm or by any firm.</p> <p>8 MS. MAINIGI: I believe the</p> <p>9 questioning reflected, Mr. Migliori, that he</p> <p>10 was paid for consulting services --</p> <p>11 MR. MIGLIORI: That's not what the</p> <p>12 question says on the realtime.</p> <p>13 MS. MAINIGI: -- prior to being a</p> <p>14 fact witness in --</p> <p>15 MR. MIGLIORI: I'll -- I'll read --</p> <p>16 MS. MAINIGI: Well, we'll go --</p> <p>17 we'll -- you know what?</p> <p>18 MR. MIGLIORI: No, no. I'll read</p> <p>19 it.</p> <p>20 MS. MAINIGI: We'll go back and</p> <p>21 look.</p> <p>22 MR. MIGLIORI: Because it's very</p> <p>23 important.</p> <p>24 MS. MAINIGI: Well, I -- I don't --</p> <p>25 MR. MIGLIORI: It says -- it says:</p>	<p style="text-align: right;">Page 536</p> <p>1 You testified earlier that you first</p> <p>2 started to analyze ARCOS data beginning around</p> <p>3 2005; isn't that correct?</p> <p>4 MR. BENNETT: Objection.</p> <p>5 THE WITNESS: Yes, sir.</p> <p>6 BY MR. EPPICH:</p> <p>7 Q. And that -- that's when you began</p> <p>8 working on the distributor initiative?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And I guess in 2010 you became</p> <p>11 what's known as a unit chief of the targeting</p> <p>12 and analytics unit?</p> <p>13 A. Analysis.</p> <p>14 Q. Analysis unit.</p> <p>15 And in that position you were</p> <p>16 responsible for the analysis of ARCOS data,</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. And that means you're -- you're</p> <p>20 actually in charge -- you're in charge of that</p> <p>21 unit that was responsible for analyzing ARCOS</p> <p>22 data; is that right?</p> <p>23 A. Correct.</p> <p>24 Q. So you and your team or the unit at</p> <p>25 DEA that -- were tasked with taking all the</p>

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1 data provided by distributors, by  
 2 manufacturers, and -- and you were using it  
 3 to -- to combat diversion.  
 4 Do I have that right?  
 5 MR. MIGLIORI: Objection. Misstates  
 6 testimony.  
 7 THE WITNESS: Yes, sir.  
 8 BY MR. EPPICH:  
 9 Q. Now, you -- you've testified that  
 10 manufacturers and distributors, they report all  
 11 of their acquisitions, their dispositions, the  
 12 inventories of controlled substances into  
 13 ARCOS; is that right?  
 14 A. Who?  
 15 Q. Manufacturers and distributors?  
 16 A. Yes, sir.  
 17 Q. And manufacturers and distributors  
 18 have been submitting this data into ARCOS since  
 19 you joined with DEA in 1995; isn't that right?  
 20 A. Correct, sir.  
 21 Q. And the controlled substances, they  
 22 were reported in this ARCOS data, and those  
 23 controlled substances included data on  
 24 Hydrocodone, oxycodone, fentanyl, other  
 25 opioids.

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1 Do I have that right?  
 2 A. You have it right.  
 3 Q. So this -- this ARCOS system, it's a  
 4 -- it's a robust system, isn't it?  
 5 MR. BENNETT: Objection to form.  
 6 BY MR. EPPICH:  
 7 Q. It has a lot of data in it, doesn't  
 8 it?  
 9 MR. SHKOLNIK: Objection to form.  
 10 THE WITNESS: Yes, sir.  
 11 BY MR. EPPICH:  
 12 Q. ARCOS tells you how many pills a  
 13 manufacturer makes, right?  
 14 A. How many they sell, yes.  
 15 Q. How many they sell.  
 16 ARCOS tells you how many pills have  
 17 been distributed by a distributor to a  
 18 pharmacy, doesn't it?  
 19 A. Correct.  
 20 Q. And using ARCOS, DEA can generate  
 21 statistical reports showing drug distributions  
 22 in grams and in dosage units.  
 23 They can do that, right?  
 24 MR. BENNETT: You can answer that  
 25 question.

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1 THE WITNESS: Okay. And after that,  
 2 can you tell me what you asked?  
 3 BY MR. EPPICH:  
 4 Q. I can.  
 5 Using ARCOS, DEA can generate  
 6 statistical reports showing drug distribution  
 7 in grams and dosage units.  
 8 A. Correct.  
 9 Q. Now, you've -- you've provided  
 10 trainings on these statistical reports in the  
 11 past, haven't you?  
 12 A. Correct.  
 13 MR. EPPICH: I'd like to mark as  
 14 Exhibit No. 49 presentation titled "ARCOS  
 15 Automation of Reports and Consolidated Order  
 16 Systems."  
 17 (Deposition Exhibit 49 was marked  
 18 for identification.)  
 19 MR. MIGLIORI: I'm going to object  
 20 to the question as outside the scope of the  
 21 direct.  
 22 BY MR. EPPICH:  
 23 Q. Now, Mr. Wright, you've seen Exhibit  
 24 49 before, haven't you?  
 25 A. I'm looking at it.

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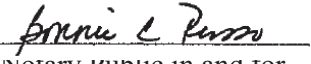
1 Q. Do you see your name on the second  
 2 page of the document?  
 3 A. It does.  
 4 Q. And do you recall presenting this --  
 5 A. Can I have a moment -- you --  
 6 Q. Absolutely.  
 7 A. Thank you.  
 8 MR. MIGLIORI: I'm going to repeat  
 9 my objections. This is beyond the scope.  
 10 MR. EPPICH: Mr. Bennett, I'll  
 11 represent to you that this presentation's found  
 12 on the DEA diversion web site.  
 13 MR. BENNETT: That's very helpful.  
 14 Thank you.  
 15 MR. SHKOLNIK: It was not covered or  
 16 this topic covered at all on either mine or --  
 17 MR. EPPICH: I think you'll see,  
 18 sir, that the topic was covered. We'll get  
 19 into that.  
 20 BY MR. EPPICH:  
 21 Q. Mr. Wright why don't we go ahead  
 22 and --  
 23 MR. BENNETT: He's still looking,  
 24 Counsel. Give him a moment, please.  
 25 MR. EPPICH: I've only got 14.

<p style="text-align: right;">Page 541</p> <p>1 THE WITNESS: Okay.</p> <p>2 BY MR. EPPICH:</p> <p>3 Q. Now, Mr. Wright, do you remember</p> <p>4 giving this presentation in June of 2011 at a</p> <p>5 conference in Fort Worth, Texas?</p> <p>6 Why don't we go ahead and turn to</p> <p>7 page 20. I'll help you out.</p> <p>8 A. Thank you.</p> <p>9 Q. The page is in the bottom-right</p> <p>10 corner.</p> <p>11 And I just want to quickly point out</p> <p>12 to the -- point you to this page.</p> <p>13 Slide 24 is a chart showing the</p> <p>14 purchases of hydrocodone by one pharmacy in</p> <p>15 Texas, isn't it -- excuse me. Yes. On</p> <p>16 slide --</p> <p>17 A. Are you on Page 20?</p> <p>18 Q. I'm going to be on page -- I'm on</p> <p>19 slide -- I'm sorry. You'll have to forgive</p> <p>20 me -- Slide 20.</p> <p>21 A. Okay.</p> <p>22 Q. And slide 20 is a chart showing the</p> <p>23 purchases of Hydrocodone, looks like Arkansas,</p> <p>24 by ZIP code in 2008, isn't it?</p> <p>25 MR. BENNETT: Objection.</p>	<p style="text-align: right;">Page 543</p> <p>1 to show the number of dosage units supplied by</p> <p>2 each distributor to a single pharmacy; isn't</p> <p>3 that true?</p> <p>4 MR. SHKOLNIK: Objection to form.</p> <p>5 And outside the scope.</p> <p>6 THE WITNESS: Yes, sir.</p> <p>7 BY MR. EPPICH:</p> <p>8 Q. Now, you've been able to generate</p> <p>9 these types of reports using ARCOS since at</p> <p>10 least 2005, correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And in -- in 2005, when you were</p> <p>13 preparing for distributors briefings, you were</p> <p>14 using these ARCOS reporting tools to identify</p> <p>15 pharmacies having extraordinarily large</p> <p>16 prescriptions of narcotics, weren't you?</p> <p>17 MR. SHKOLNIK: Objection to form.</p> <p>18 THE WITNESS: I'm sorry. I lost</p> <p>19 the -- the last part of your question. Can you</p> <p>20 repeat that, please.</p> <p>21 Q. Let me -- let me try it again.</p> <p>22 A. Thank you, sir.</p> <p>23 Q. In -- when you were preparing for</p> <p>24 the distributor briefings --</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 542</p> <p>1 THE WITNESS: I don't know if it's</p> <p>2 Arkansas. But it looks like a state because --</p> <p>3 BY MR. EPPICH:</p> <p>4 Q. The -- the -- but the point is is</p> <p>5 ARCOS reports -- ARCOS reports can be generated</p> <p>6 to show counties having an above-average</p> <p>7 distribution of controlled substances as</p> <p>8 compared to other counties in the state and the</p> <p>9 national average; isn't that true?</p> <p>10 A. Counties --</p> <p>11 MR. SHKOLNIK: Objection. Outside</p> <p>12 the scope.</p> <p>13 THE WITNESS: You -- your question</p> <p>14 is counties in comparison to other counties</p> <p>15 within a state?</p> <p>16 MR. EPPICH: Yes, sir.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MR. EPPICH:</p> <p>19 Q. And ARCOS reports can be generated</p> <p>20 to show the number of dosage units dispensed by</p> <p>21 a single pharmacy and compared that -- compare</p> <p>22 that to average pharmacy purchases in the state</p> <p>23 and across the United States; isn't that true?</p> <p>24 A. Yes, it can.</p> <p>25 Q. And ARCOS reports can be generated</p>	<p style="text-align: right;">Page 544</p> <p>1 Q. -- you were using these ARCOS</p> <p>2 reporting tools to identify pharmacies having</p> <p>3 extraordinarily large prescriptions in</p> <p>4 narcotics, and you present that data to the</p> <p>5 distributors, correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. You didn't -- you didn't need</p> <p>8 distributors' suspicious order reports to do</p> <p>9 that analysis, did you?</p> <p>10 MR. MIGLIORI: Objection. Scope.</p> <p>11 THE WITNESS: No, sir.</p> <p>12 BY MR. EPPICH:</p> <p>13 Q. Now, while you were in the targeting</p> <p>14 and analysis group, one of your</p> <p>15 responsibilities was to analyze the trends of</p> <p>16 controlled substances -- excuse me --</p> <p>17 controlled substance distributions on national,</p> <p>18 state and local levels, correct?</p> <p>19 A. It was one of our functions. I</p> <p>20 don't know if it was a defined responsibility.</p> <p>21 Q. It was one of your functions.</p> <p>22 How were you and your staff using</p> <p>23 ARCOS to conduct and analyze trends of</p> <p>24 controlled substance distributions on a</p> <p>25 national, state and local level, just -- just</p>

<p style="text-align: right;">Page 545</p> <p>1 generally?</p> <p>2 MR. SHKOLNIK: Outside the scope.</p> <p>3 MR. MIGLIORI: Objection to form.</p> <p>4 THE WITNESS: I'd say that the</p> <p>5 easiest answer to that is public reports 1</p> <p>6 through 7.</p> <p>7 BY MR. EPPICH:</p> <p>8 Q. And other than your public reports,</p> <p>9 how were you using ARCOS data to analyze trends</p> <p>10 of controlled substance distributions?</p> <p>11 MR. BENNETT: Objection.</p> <p>12 So you're not --</p> <p>13 MR. MIGLIORI: Same objection.</p> <p>14 MR. BENNETT: You're not authorized</p> <p>15 to --</p> <p>16 MR. SHKOLNIK: Objection. Scope.</p> <p>17 MR. BENNETT: -- discuss specific</p> <p>18 cases on how you used it or confidential law</p> <p>19 enforcement technique. But to the extent you</p> <p>20 can answer generally, you may answer.</p> <p>21 THE WITNESS: My responsibility was</p> <p>22 to provide information to either division --</p> <p>23 first off, the front office and anything that</p> <p>24 they needed, and then to division or regional</p> <p>25 offices or specific offices. They'd send me a</p>	<p style="text-align: right;">Page 547</p> <p>1 MR. BENNETT: You can answer</p> <p>2 generally.</p> <p>3 THE WITNESS: Yes. Yes. We were</p> <p>4 seeing if -- if there was something, you know,</p> <p>5 grievously outrageous that required further</p> <p>6 attention. Not that we did anything</p> <p>7 specifically with it except for send it out to</p> <p>8 the field office of responsibility.</p> <p>9 BY MR. EPPICH:</p> <p>10 Q. So your testimony is that, when you</p> <p>11 found a suspicious pharmacy or the</p> <p>12 identification of a suspicious pharmacy, you</p> <p>13 would identify that pharmacy to the field</p> <p>14 office; is that correct?</p> <p>15 MR. BENNETT: Objection. Regarding</p> <p>16 what the specific internal practice is with</p> <p>17 individual pharmacies, I'm going to instruct</p> <p>18 the witness he's not authorized at this time to</p> <p>19 answer that. Goes beyond the scope of his</p> <p>20 authorization.</p> <p>21 BY MR. EPPICH:</p> <p>22 Q. In general, when you identified a</p> <p>23 suspicious pharmacy, did you identify that</p> <p>24 pharmacy to the relevant DEA field office?</p> <p>25 MR. BENNETT: Objection.</p>
<p style="text-align: right;">Page 546</p> <p>1 request, and we'd -- depending on whether it</p> <p>2 was an actual case or whether it was just</p> <p>3 background information, we would provide it.</p> <p>4 BY MR. EPPICH:</p> <p>5 Q. Were you ever trying to identify</p> <p>6 pharmacies with order volumes or patterns</p> <p>7 suggesting diversion activity?</p> <p>8 MR. BENNETT: Objection. You're not</p> <p>9 authorized to discuss specific efforts or</p> <p>10 specific techniques.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. EPPICH:</p> <p>13 Q. Were you using ARCOS to try to</p> <p>14 identify red flags?</p> <p>15 MR. BENNETT: Objection.</p> <p>16 Same instruction.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MR. EPPICH:</p> <p>19 Q. Were you able to identify any</p> <p>20 suspicious pharmacies from your work?</p> <p>21 MR. BENNETT: Objection.</p> <p>22 BY MR. EPPICH:</p> <p>23 Q. Just generally.</p> <p>24 MR. MIGLIORI: Objection. Scope.</p> <p>25 Just generally.</p>	<p style="text-align: right;">Page 548</p> <p>1 Same instruction. He's not to</p> <p>2 answer that as far as what they did with</p> <p>3 individual pharmacies.</p> <p>4 BY MR. EPPICH:</p> <p>5 Q. In general, what did you do when</p> <p>6 you -- when you learned about a suspicious</p> <p>7 pharmacy?</p> <p>8 MR. BENNETT: Objection.</p> <p>9 BY MR. EPPICH:</p> <p>10 Q. -- from -- from review of the data?</p> <p>11 MR. BENNETT: Objection. He's not</p> <p>12 authorized to answer what the DEA did</p> <p>13 individually in cases internally.</p> <p>14 BY MR. EPPICH:</p> <p>15 Q. Did the DEA shut down the pharmacies</p> <p>16 that you identified?</p> <p>17 MR. BENNETT: Objection.</p> <p>18 MR. SHKOLNIK: Objection. Outside</p> <p>19 the scope.</p> <p>20 MR. BENNETT: And objection. He's</p> <p>21 not authorized to talk about specific cases.</p> <p>22 BY MR. EPPICH:</p> <p>23 Q. Was it your general practice to</p> <p>24 refer the suspicious pharmacies you identified</p> <p>25 through ARCOS to a field office so the field</p>

<p style="text-align: right;">Page 549</p> <p>1 office could shut down that pharmacy?</p> <p>2 MR. BENNETT: Objection. Beyond the</p> <p>3 scope of his authorization. He can't answer</p> <p>4 that.</p> <p>5 MR. SHKOLNIK: And outside the scope</p> <p>6 of examination.</p> <p>7 BY MR. EPPICH:</p> <p>8 Q. What did you do with the</p> <p>9 identification of the suspicious pharmacy after</p> <p>10 you identified it through the ARCOS data?</p> <p>11 MR. BENNETT: Objection. He can't</p> <p>12 answer that. It's outside the scope of his</p> <p>13 authorization.</p> <p>14 BY MR. EPPICH:</p> <p>15 Q. Would you ever follow up with a</p> <p>16 field office to determine whether or not they</p> <p>17 had taken action in response to any</p> <p>18 instructions or guidance or information that</p> <p>19 you'd provide them?</p> <p>20 MR. BENNETT: Objection. He -- he's</p> <p>21 not authorized to answer about specific</p> <p>22 enforcement actions that he took.</p> <p>23 MR. SHKOLNIK: And -- and for the</p> <p>24 record, these were all nice areas to go into on</p> <p>25 the main part of your deposition, not as</p>	<p style="text-align: right;">Page 551</p> <p>1 MR. BENNETT: Counsel, we have about</p> <p>2 five minutes until 5:00.</p> <p>3 MR. EPPICH: Thank you.</p> <p>4 I'd like to mark Exhibit 51.</p> <p>5 This is an e-mail that you received</p> <p>6 from Don Walker on August 14, 2008.</p> <p>7 Notification of suspicious customer, and your</p> <p>8 response on top.</p> <p>9 (Deposition Exhibit 51 was marked</p> <p>10 for identification.)</p> <p>11 BY MR. EPPICH:</p> <p>12 Q. Now, Mr. Wright, in 2008 you're</p> <p>13 familiar with the practice of distributors of</p> <p>14 identifying the names of what they've</p> <p>15 determined to be a suspicious customer after</p> <p>16 they've performed due diligence.</p> <p>17 You're aware of that practice,</p> <p>18 aren't you?</p> <p>19 A. Yes, sir.</p> <p>20 Q. In this e-mail from Mr. Don Walker</p> <p>21 on August 14, 2008, he's identification a</p> <p>22 suspicious customer to you, isn't he?</p> <p>23 A. Yes, sir.</p> <p>24 MR. SHKOLNIK: Objection. Outside</p> <p>25 the scope.</p>
<p style="text-align: right;">Page 550</p> <p>1 reserved for a second deposition. Outside the</p> <p>2 scope.</p> <p>3 MR. EPPICH: Thank you.</p> <p>4 MR. STEPHENS: And for</p> <p>5 clarification, are you instructing him not to</p> <p>6 answer those questions?</p> <p>7 MR. BENNETT: I am indicating that</p> <p>8 he's not authorized to disclose DEA information</p> <p>9 in response to those questions. So he doesn't</p> <p>10 have authorization to answer them.</p> <p>11 BY MR. EPPICH:</p> <p>12 Q. After identifying a suspicious</p> <p>13 pharmacy is in the ARCOS data, did you ever</p> <p>14 inform distributors of the identification of</p> <p>15 that pharmacy?</p> <p>16 MR. SHKOLNIK: Objection. Outside</p> <p>17 the scope of direct.</p> <p>18 MR. BENNETT: Objection to the</p> <p>19 extent that that talks about specific cases.</p> <p>20 However, you can otherwise answer</p> <p>21 that question about information you may have</p> <p>22 provided to distributors about suspicious</p> <p>23 pharmacies as long as it wasn't any specific</p> <p>24 case that was worked.</p> <p>25 THE WITNESS: No.</p>	<p style="text-align: right;">Page 552</p> <p>1 BY MR. EPPICH:</p> <p>2 Q. He's identifying the registrant</p> <p>3 Advanced Doctors Prescription Pharmacy in San</p> <p>4 Antonio, Texas.</p> <p>5 Do you see that?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And you respond: "This is to</p> <p>8 acknowledge receipt of your e-mail. It is</p> <p>9 appreciated if you would continue to provide</p> <p>10 any and all information you have or discover to</p> <p>11 the local DEA office in San Antonio."</p> <p>12 Do you see that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Now, do you know -- do you know,</p> <p>15 just generally, what the DEA would do with the</p> <p>16 identification of suspicious customers as</p> <p>17 received from distributors during this time?</p> <p>18 MR. BENNETT: Objection. He's not</p> <p>19 authorized to respond to what he's done in</p> <p>20 specific cases internally within the DEA.</p> <p>21 MR. SHKOLNIK: And outside the</p> <p>22 scope.</p> <p>23 BY MR. EPPICH:</p> <p>24 Q. You may answer.</p> <p>25 MR. BENNETT: No. He may not answer</p>



<p style="text-align: right;">Page 553</p> <p>1 what DEA would do with the suspicious order --</p> <p>2 this suspicious order.</p> <p>3 BY MR. EPPICH:</p> <p>4 Q. Do you recall passing along these</p> <p>5 suspicious orders to the relevant field</p> <p>6 offices?</p> <p>7 MR. BENNETT: Objection. He's not</p> <p>8 authorized to answer about specific actions</p> <p>9 taken internally by the DEA in response to this</p> <p>10 suspicious order report.</p> <p>11 BY MR. EPPICH:</p> <p>12 Q. Are you aware that last month the</p> <p>13 DEA launched a new tool in ARCOS online</p> <p>14 reporting systems that would allow distributors</p> <p>15 to view and download the number of distributors</p> <p>16 and the amount each distributor sold to</p> <p>17 perspective customers in the last six months?</p> <p>18 Are you aware of that?</p> <p>19 MR. SHKOLNIK: Objection. Outside</p> <p>20 the scope.</p> <p>21 You asked for an extra two and a</p> <p>22 half hours of deposition time, and you're just</p> <p>23 doing a new deposition and not addressing</p> <p>24 anything we covered.</p> <p>25 MR. TAYMAN: And you have less than</p>	<p style="text-align: right;">Page 555</p> <p>1 MR. EPPICH: Let's go off the</p> <p>2 record.</p> <p>3 THE VIDEOGRAPHER: We are going off</p> <p>4 the record.</p> <p>5 The time is 4:58.</p> <p>6 (A short recess was taken.)</p> <p>7 THE VIDEOGRAPHER: We are off the</p> <p>8 record at 5:01 p.m.</p> <p>9 And This concludes today's testimony</p> <p>10 given by Kyle Wright.</p> <p>11 The total number of media units used</p> <p>12 was five and will be retained by Veritext Legal</p> <p>13 Solutions.</p> <p>14 (Whereupon, the proceeding was</p> <p>15 adjourned at 5:01 p.m.)</p>
<p style="text-align: right;">Page 554</p> <p>1 two minutes.</p> <p>2 MR. BENNETT: And I would join the</p> <p>3 objection of it being outside the scope of the</p> <p>4 plaintiffs' cross-examination.</p> <p>5 THE WITNESS: You -- you said in the</p> <p>6 last six months?</p> <p>7 MR. EPPICH: Yes, sir.</p> <p>8 THE WITNESS: I haven't worked in</p> <p>9 two years. So I have no idea.</p> <p>10 BY MR. EPPICH:</p> <p>11 Q. But DEA, up until 2018, did not</p> <p>12 permit other distributors to see the ARCOS data</p> <p>13 so that they could determine how much of a</p> <p>14 single -- of -- of a -- of a controlled</p> <p>15 substance was being shipped into a pharmacy by</p> <p>16 another distributor; isn't that correct?</p> <p>17 MR. SHKOLNIK: Objection. Outside</p> <p>18 the scope. A waste of your two and a half</p> <p>19 hours.</p> <p>20 MR. BENNETT: Objection.</p> <p>21 MR. EPPICH: I've heard your</p> <p>22 objection. Thank you.</p> <p>23 MR. BENNETT: Object to form and</p> <p>24 also being outside the scope.</p> <p>25 THE WITNESS: Yes, sir.</p>	<p style="text-align: right;">Page 556</p> <p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2 I, Bonnie L. Russo, the officer before</p> <p>3 whom the foregoing deposition was taken, do</p> <p>4 here by certify that the witness whose</p> <p>5 testimony appears in the foregoing deposition</p> <p>6 was duly sworn by me; that the testimony of</p> <p>7 said witness was taken by me in shorthand and</p> <p>8 thereafter reduced to computerized</p> <p>9 transcription under my direction; that said</p> <p>10 deposition is a true record of the testimony</p> <p>11 given by said witness; that I am neither</p> <p>12 counsel for, related to, nor employed by any of</p> <p>13 the parties to the action in which this</p> <p>14 deposition was taken; and further, that I am</p> <p>15 not a relative or employee of any attorney or</p> <p>16 counsel employed by the parties hereto, nor</p> <p>17 financially or otherwise interested in the</p> <p>18 outcome of the action.</p> <p>19</p> <p>20 </p> <p>21 Notary Public in and for</p> <p>22 the District of Columbia</p> <p>23</p> <p>24 My Commission expires: June 30, 2020</p> <p>25</p>

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1 Veritext Legal Solutions  
1100 Superior Ave  
2 Suite 1820  
3 Cleveland, Ohio 44114  
4 Phone: 216-523-1313  
5  
6 March 7, 2019  
7  
8 To: David Lee Tayman  
9  
10 Case Name: In Re: National Prescription Opiate Litigation v.  
11 Veritext Reference Number: 3249543  
12  
13 Witness: Kyle Wright, Vol II Deposition Date: 3/4/2019  
14  
15 Dear Sir/Madam:  
16  
17 Enclosed please find a deposition transcript. Please have the witness  
18 review the transcript and note any changes or corrections on the  
19 included errata sheet, indicating the page, line number, change, and  
20 the reason for the change. Have the witness' signature notarized and  
21 forward the completed page(s) back to us at the Production address  
22 shown  
23 above, or email to production-midwest@veritext.com.  
24  
25 If the errata is not returned within thirty days of your receipt of  
this letter, the reading and signing will be deemed waived.  
Sincerely,  
Production Department  
NO NOTARY REQUIRED IN CA

Page 558

1 DEPOSITION REVIEW  
2 CERTIFICATION OF WITNESS  
3  
4 ASSIGNMENT REFERENCE NO: 3249543  
5 CASE NAME: In Re: National Prescription Opiate Litigation v.  
6 DATE OF DEPOSITION: 3/4/2019  
7 WITNESS' NAME: Kyle Wright, Vol II  
8 In accordance with the Rules of Civil  
9 Procedure, I have read the entire transcript of  
10 my testimony or it has been read to me.  
11 I have made no changes to the testimony  
12 as transcribed by the court reporter.  
13  
14 Date Kyle Wright, Vol II  
15 Sworn to and subscribed before me, a  
16 Notary Public in and for the State and County,  
17 the referenced witness did personally appear  
18 and acknowledge that:  
19 They have read the transcript;  
20 They signed the foregoing Sworn  
21 Statement; and  
22 Their execution of this Statement is of  
23 their free act and deed.  
24  
25 I have affixed my name and official seal  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
Commission Expiration Date

Page 559

1 DEPOSITION REVIEW  
2 CERTIFICATION OF WITNESS  
3  
4 ASSIGNMENT REFERENCE NO: 3249543  
5 CASE NAME: In Re: National Prescription Opiate Litigation v.  
6 DATE OF DEPOSITION: 3/4/2019  
7 WITNESS' NAME: Kyle Wright, Vol II  
8 In accordance with the Rules of Civil  
9 Procedure, I have read the entire transcript of  
10 my testimony or it has been read to me.  
11 I have listed my changes on the attached  
12 Errata Sheet, listing page and line numbers as  
13 well as the reason(s) for the change(s).  
14 I request that these changes be entered  
15 as part of the record of my testimony.  
16  
17 I have executed the Errata Sheet, as well  
18 as this Certificate, and request and authorize  
19 that both be appended to the transcript of my  
20 testimony and be incorporated therein.  
21  
22 Date Kyle Wright, Vol II  
23  
24 Sworn to and subscribed before me, a  
25 Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:  
They have read the transcript;  
They have listed all of their corrections  
in the appended Errata Sheet;  
They signed the foregoing Sworn  
Statement; and  
Their execution of this Statement is of  
their free act and deed.  
I have affixed my name and official seal  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
Commission Expiration Date

Page 560

1 ERRATA SHEET  
2 VERITEXT LEGAL SOLUTIONS MIDWEST  
3 ASSIGNMENT NO: 3/4/2019  
4 PAGE/LINE(S) / CHANGE /REASON  
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13  
14  
15  
16  
17  
18  
19  
20 Date Kyle Wright, Vol II  
21 SUBSCRIBED AND SWORN TO BEFORE ME THIS  
22 DAY OF \_\_\_\_\_, 20\_\_\_\_.  
23  
24 Notary Public  
25  
\_\_\_\_\_  
Commission Expiration Date

[&amp; - 2004]

Page 1

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.



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